

**ARKANSAS CODE
OF 1987
ANNOTATED**

OFFICIAL EDITION



VOLUME 24B • TITLE 23, CH. 88-112



Digitized by the Internet Archive
in 2013

ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 24B

2004 Replacement

TITLE 23: PUBLIC UTILITIES AND REGULATED INDUSTRIES (CHAPTERS 88-112)

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
ARKANSAS CODE REVISION COMMISSION

Representative Steve Napper, *Chair*

Senator Gene Jeffress

Senator Sue Madison

Representative Will Bond

Honorable Douglas O. Smith, Jr.

Honorable William H. "Buddy" Sutton, Jr.

Honorable William G. Wright

Honorable Chuck Goldner, *Dean, University of Arkansas at
Little Rock, School of Law*

Honorable Richard Atkinson, *Dean, University of Arkansas at
Fayetteville, School of Law*

Honorable Tom Gay, *Senior Assistant Attorney General*

Honorable David Ferguson, *Assistant Director,
Bureau of Legislative Research*



LexisNexis™

COPYRIGHT © 1987, 1999, 2004

BY

THE STATE OF ARKANSAS

All Rights Reserved

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc. used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

4071811

ISBN 0-8205-8505-X



LexisNexis™

Matthew Bender & Company, Inc.

P.O. Box 7587, Charlottesville, VA 22906-7587

www.lexisnexis.com

Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2003 Regular Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2003 Ark. LEXIS 690 (December 18, 2003) and 2003 Ark. App. LEXIS 575 (July 25, 2003).

Federal Supplement through July 25, 2003.

Federal Reporter 3d Series through July 25, 2003.

United States Supreme Court Reports, through July 25, 2003.

Bankruptcy Reporter through July 25, 2003.

Arkansas Law Notes through the 2001 Edition.

Arkansas Law Review through Volume 56, p. 497.

University of Arkansas at Little Rock Law Journal through Volume 25, p. 1010.

Titles of the Arkansas Code

- | | |
|---|---|
| 1. General Provisions | 15. Natural Resources and Economic Development |
| 2. Agriculture | 16. Practice, Procedure, and Courts |
| 3. Alcoholic Beverages | 17. Professions, Occupations, and Businesses |
| 4. Business and Commercial Law | 18. Property |
| 5. Criminal Offenses | 19. Public Finance |
| 6. Education | 20. Public Health and Welfare |
| 7. Elections | 21. Public Officers and Employees |
| 8. Environmental Law | 22. Public Property |
| 9. Family Law | 23. Public Utilities and Regulated Industries |
| 10. General Assembly | 24. Retirement and Pensions |
| 11. Labor and Industrial Relations | 25. State Government |
| 12. Law Enforcement, Emergency Management, and Military Affairs | 26. Taxation |
| 13. Libraries, Archives, and Cultural Resources | 27. Transportation |
| 14. Local Government | 28. Wills, Estates, and Fiduciary Relationships |

User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of Volume 1 of the Code.

TITLE 23

PUBLIC UTILITIES AND REGULATED INDUSTRIES

(CHAPTERS 1-29 IN VOLUME 22; CHAPTERS 30-59 IN VOLUME 23A; CHAPTERS 60-73 IN VOLUME 23B; CHAPTERS 74-87 IN VOLUME 24A)

SUBTITLE 1. PUBLIC UTILITIES AND CARRIERS

CHAPTER.

1. GENERAL PROVISIONS.
2. REGULATORY COMMISSIONS.
3. REGULATION OF UTILITIES AND CARRIERS GENERALLY.
4. REGULATION OF RATES AND CHARGES GENERALLY.
- 5-9. [RESERVED.]
10. TRANSPORTATION OF PASSENGERS AND FREIGHT GENERALLY.
11. ESTABLISHMENT AND ORGANIZATION OF RAILROADS.
12. OPERATION AND MAINTENANCE OF RAILROADS.
13. MOTOR CARRIERS.
14. AIR COMMERCE REGULATIONS.
15. PIPELINE COMPANIES.
16. MISCELLANEOUS PROVISIONS RELATING TO CARRIERS.
17. TELEPHONE AND TELEGRAPH COMPANIES.
18. LIGHT, HEAT, AND POWER UTILITIES.
19. ELECTRIC CONSUMER CHOICE ACT OF 1999. [REPEALED.]
- 20-29. [RESERVED.]

SUBTITLE 2. FINANCIAL INSTITUTIONS AND SECURITIES

CHAPTER.

30. GENERAL PROVISIONS. [REPEALED.]
31. STATE BANK DEPARTMENT AND STATE BANKING BOARD. [REPEALED.]
32. GENERAL PROVISIONS.
33. INSOLVENCY AND LIQUIDATION. [REPEALED.]
34. MISCELLANEOUS VIOLATIONS OF BANKING LAWS. [REPEALED.]
35. CREDIT UNIONS.
36. INDUSTRIAL LOAN INSTITUTIONS.
37. SAVINGS AND LOAN ASSOCIATIONS.
38. BUILDING AND LOAN ASSOCIATIONS — MISCELLANEOUS PROVISIONS.
39. MORTGAGE LOAN COMPANIES AND LOAN BROKERS.
40. SALE OF PREPAID FUNERAL BENEFITS.
41. SALE OF CHECKS.
42. SECURITIES GENERALLY.
43. INVESTOR PROTECTION TAKEOVER ACT.
44. COMMODITIES FUTURES.
45. BANKING CODE OF 1997.
46. STATE BANK DEPARTMENT AND STATE BANKING BOARD.
47. BANK POWERS — SUBSIDIARIES.
48. ORGANIZATION AND OPERATION.
49. DISSOLUTION AND LIQUIDATION.
50. MISCELLANEOUS VIOLATIONS OF BANKING LAWS.

CHAPTER.

- 51. TRUST INSTITUTIONS.
- 52. CHECK-CASHERS ACT.
- 53. ARKANSAS HOME LOAN PROTECTION ACT.
- 54-59. [RESERVED.]

SUBTITLE 3. INSURANCE

CHAPTER.

- 60. GENERAL PROVISIONS.
- 61. STATE INSURANCE DEPARTMENT.
- 62. KINDS OF INSURANCE — REINSURANCE.
- 63. INSURANCE COMPANIES GENERALLY.
- 64. LICENSEES, AGENTS, BROKERS, ADJUSTERS, AND CONSULTANTS.
- 65. UNAUTHORIZED INSURERS AND SURPLUS LINES.
- 66. TRADE PRACTICES.
- 67. RATES AND RATING ORGANIZATIONS.
- 68. REHABILITATION AND LIQUIDATION OF INSURANCE COMPANIES.
- 69. DOMESTIC STOCK AND MUTUAL INSURERS.
- 70. RECIPROCAL INSURERS.
- 71. STIPULATED PREMIUM INSURERS.
- 72. MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.
- 73. FARMERS' MUTUAL AID ASSOCIATIONS.
- 74. FRATERNAL BENEFIT SOCIETIES.
- 75. HOSPITAL AND MEDICAL SERVICE CORPORATIONS.
- 76. HEALTH MAINTENANCE ORGANIZATIONS.
- 77. AUTOMOBILE CLUBS OR ASSOCIATIONS.
- 78. BURIAL ASSOCIATIONS.
- 79. INSURANCE POLICIES GENERALLY.
- 80. INSURANCE POLICIES — SIMPLIFICATION.
- 81. LIFE INSURANCE POLICIES AND ANNUITIES.
- 82. INDUSTRIAL LIFE INSURANCE.
- 83. GROUP LIFE INSURANCE AND ANNUITIES.
- 84. STANDARD VALUATION LAW FOR LIFE INSURANCE AND ANNUITIES.
- 85. ACCIDENT AND HEALTH INSURANCE.
- 86. GROUP AND BLANKET ACCIDENT AND HEALTH INSURANCE.
- 87. MODEL ACT FOR THE REGULATION OF CREDIT LIFE INSURANCE AND CREDIT DISABILITY INSURANCE.
- 88. PROPERTY INSURANCE.
- 89. CASUALTY INSURANCE.
- 90. ARKANSAS PROPERTY AND CASUALTY INSURANCE GUARANTY ACT.
- 91. PREPAID LEGAL INSURANCE.
- 92. MULTIPLE EMPLOYER TRUSTS AND SELF-INSURED PLANS.
- 93. CONTINUING CARE PROVIDERS.
- 94. LIABILITY RISK RETENTION.
- 95. RISK-SHARING PLANS FOR PROPERTY AND CASUALTY INSURANCE.
- 96. ARKANSAS LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT.
- 97. LONG-TERM CARE INSURANCE.
- 98. MINIMUM BASIC BENEFIT POLICIES AND SUBSCRIPTION CONTRACTS.
- 99. HEALTH CARE PROVIDERS.
- 100. INSURANCE FRAUD INVESTIGATION DIVISION TRUST FUND ACT.
- 101. CREDITOR-PLACED INSURANCE.
- 102. ARKANSAS EARTHQUAKE AUTHORITY ACT.
- 103. ARKANSAS TITLE INSURANCE AGENTS' LICENSING ACT.
- 104-109. [RESERVED.]

SUBTITLE 4. MISCELLANEOUS REGULATED INDUSTRIES

CHAPTER.

- 110. ARKANSAS HORSE RACING LAW.
- 111. ARKANSAS GREYHOUND RACING LAW.
- 112. ARKANSAS MOTOR VEHICLE COMMISSION ACT.

SUBTITLE 3. INSURANCE

Effective Dates. Acts 1959, No. 148,
§ 697: 12:01 A.M., Jan. 1, 1960.

CASE NOTES

Waiver of Premiums.

The insurance code among other things gave the Insurance Commissioner the power to approve the form of policies; however, that act did not change the case law applicable to the waiver of premiums

during disability. J.C. Penney Life Ins. Co. v. Warren, 268 Ark. 1132, 599 S.W.2d 415 (Ct. App. 1980).

Cited: Cherry v. Tanda, Inc., 327 Ark. 600, 940 S.W.2d 457 (1997).

CHAPTER 88

PROPERTY INSURANCE

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. ANTIARSON APPLICATIONS.
- 3. RURAL RISK UNDERWRITING.
- 4. FIRE LOSS REPORTING ACT OF 2003.

RESEARCH REFERENCES

ALR. Prejudgment interest: insured's right to recover from insurer on amount of fire loss. 5 ALR 4th 126.
"Other insurance" within meaning of insurance policy provisions prohibiting insured from obtaining other insurance on same property. 7 ALR 4th 494.
Scope of clause excluding from contractor's or similar liability policy damage to property in care, custody, or control of insured. 8 ALR 4th 563.

Obtaining new property insurance as cancelling existing insurance. 14 ALR 4th 781.
Nondisclosure of information by insured regarding value of property as ground for avoiding liability under property insurance policy. 15 ALR 4th 1109.
Clause excluding from coverage losses proved by "inventory computation" or "profit and loss computation." 45 ALR 4th 1049.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-88-101. Valued policy law.

23-88-102. Paying costs of volunteer fire department services.

23-88-103. Rate credits or reduced rates in rural fire protection districts or areas.

SECTION.

23-88-104. Fire protection to be considered in property insurance rating plans.

23-88-105. Notice required prior to expiration of property insurance policy.

Cross References. Manner of payment of claims, § 23-63-107.

Property and Casualty Insurance Policy Simplification Act, § 23-80-301 et seq.

Effective Dates. Acts 1985 (1st Ex. Sess.), No. 37, § 3 and No. 38, § 3: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 485 of 1985, which prohibits property and casualty insurers from giving a preferred rate to owners of property located in a fire protection district unless such owners have paid

the assessment or dues levied to support the fire protection failed to prescribe penalties for violations and that the Act is not readily enforceable; that this Act is designed to clarify some provisions of Act 485 of 1985 and to prescribe penalties for violations of the Act and to thereby make the Act more enforceable. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

Am. Jur. 44 Am. Jur. 2d, Ins., § 939 et seq.

Ark. L. Rev. Problems Arising Under Valued Policy Insurance Statutes, 12 Ark. L. Rev. 184.

Insurance — Compromise and Settlement of Total Loss Under the Valued Policy Statute, 18 Ark. L. Rev. 173.

23-88-101. Valued policy law.

(a) In case of a total loss by fire or natural disaster of the property insured, a property insurance policy other than for flood and earthquake insurance shall be held and considered to be a liquidated demand against the company taking the risk for the full amount stated in the policy or the full amount upon which the company charges, collects, or receives a premium.

(b) However, the provisions of this section shall not apply to personal property or detached or appurtenant structures.

History. Acts 1959, No. 148, § 446; A.S.A. 1947, § 66-3901; Acts 1999, No. 1069, § 1.

Amendments. The 1999 amendment rewrote (a); and added "or detached or appurtenant structures" in (b).

RESEARCH REFERENCES

UALR L.J. Annual Survey of Caselaw, Insurance Law, 24 UALR L.J. 1039.

CASE NOTES

ANALYSIS

In general.
 Construction.
 Purpose.
 Applicability.
 Appurtenancies.
 Concurrent policies.
 Contract provisions.
 Evidence.
 Fraud, misrepresentations, etc.
 Insurable interest.
 Proof of loss.
 Reformation of policy.
 Secured party.
 Separate actions.
 Settlement.
 Total loss.

In General.

Arkansas is a "valued policy" state. *Underwriters at Lloyd's v. Pike*, 812 F. Supp. 146 (W.D. Ark. 1993).

Construction.

This section is penal in nature, it must be strictly construed. *MFA Mut. Ins. Co. v. Pearrow*, 249 Ark. 542, 459 S.W.2d 798 (1970).

This section is plain and unambiguous. *St. Paul Fire & Marine Ins. Co. v. Griffin Constr. Co.*, 338 Ark. 289, 993 S.W.2d 485 (1999).

Purpose.

The valued policy law was intended to relieve the insured from the burden of proving the value of his property after its total destruction and to prevent insurance companies from receiving premiums on overvaluations and thereafter repudiating their contracts as soon as it becomes their interest to do so. *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law). *Underwriters at Lloyd's v. Pike*, 812 F. Supp. 146 (W.D. Ark. 1993).

Applicability.

Former section applied to cases of concurrent insurance and to insurance on special and limited interests in land. *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law).

Former section applied to farmers' mutual associations. *Tedford v. Security*

State Fire Ins. Co., 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law).

The trial court erred in refusing to direct a verdict on the inapplicability of the valued policy law and in instructing the jury that the valued policy applied because the policy at issue was not a closed policy with an agreed-to value in the event of fire loss but was, instead, open with premiums calculated in part based on periodic reporting. *St. Paul Fire & Marine Ins. Co. v. Griffin Constr. Co.*, 338 Ark. 289, 993 S.W.2d 485 (1999).

Appurtenancies.

This section was inapplicable to a house trailer which the owner, a school superintendent, placed on school property with permission of the school district but without a lease of the ground, elevated upon concrete blocks but with wheels not removed, and connected with utilities. *Farmers Union Mut. Ins. Co. v. Denniston*, 237 Ark. 768, 376 S.W.2d 252 (1964).

Concurrent Policies.

Where insureds' home was concurrently covered by two policies, each issued by a separate insurer, and only one insurer stipulated in its contract against other insurance, that insurer later expressly waiving that right, under this section the measure of the loss when insureds' home was totally destroyed by fire was the aggregate of the concurrent policies in force, with each insurer being liable for the full amount of its policy. *Mann v. Charter Oak Fire Ins. Co.*, 196 F. Supp. 604 (E.D. Ark. 1961), *aff'd*, 304 F.2d 166 (8th Cir. 1962).

An insurer against fire was liable for the face value of the policy in the case of a total loss by fire even though the vendee of the premises under a conditional sale with the insured had, without the knowledge of the insured, carried insurance in a like amount, collected it, and paid the insured the balance due under the contract of sale. *Hensley v. Farm Bureau Mut. Ins. Co.*, 243 Ark. 408, 420 S.W.2d 76 (1967).

Fire insurance policy provision stating that insurer shall not be liable for a greater proportion of loss than amount insured shall bear to the whole insurance covering the property did not entitle in-

surer to prorate its liability with another insurer. *Interstate Fire Ins. Co. v. James*, 252 Ark. 638, 480 S.W.2d 341 (1972).

In view of this valued policy section, insured should receive no less than the greater of the face amounts of the two insurance policies in effect at the time of his total loss; each insurer shall pay the proportion of the loss that the amount of the respective policy limits bear to the sum of the insurance coverages provided on the property. *Underwriters at Lloyd's v. Pike*, 812 F. Supp. 146 (W.D. Ark. 1993).

A single insured may recover the face value of two separate insurance policies when there has been a total loss to the covered real property. *St. Paul Reinsurance Co. v. Glover*, 72 Ark. App. 134, 34 S.W.3d 760 (2000), *aff'd sub nom. St. Paul Reinsurance Co. v. Irons*, 345 Ark. 187, 45 S.W.3d 366 (2001).

An insurer is required to pay the full face value of an insurance policy, even where the insured obtained two separate insurance policies for one insurable interest. *St. Paul Reinsurance Co. v. Irons*, 345 Ark. 187, 45 S.W.3d 366 (2001).

Contract Provisions.

A provision in a fire insurance policy in conflict with former section was void. *Liverpool & London & Globe Ins. Co. v. Payton*, 128 Ark. 528, 194 S.W. 503 (1917); *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (preceding decisions under prior law).

A stipulation in a valued fire policy limiting the insurance to less than the actual value of the property was void. *Farmers' Home Mut. Fire Ass'n v. McAlister*, 171 Ark. 574, 285 S.W. 5 (1926) (decision under prior law).

An insurer is liable for the full amount in a policy in case of a total loss, regardless of a provision in the policy that the insurer was not liable for any loss beyond the actual cash value of the policy and in no event should recovery exceed the cost of repairing or replacing the property. *Firemen's Ins. Co. v. Little*, 189 Ark. 640, 74 S.W.2d 777 (1934) (decision under prior law).

The provision in a fire policy giving the insurer the right to repair, rebuild or replace property within a reasonable time is available only when the building has not been totally destroyed. *Camden Fire Ins. Ass'n v. Reynolds*, 190 Ark. 390, 79

S.W.2d 54 (1935) (decision under prior law).

Where jury found there was a total loss, the company is liable for the full amount stated in policy and it is unnecessary to consider a "full completed value contribution clause" in policy. *Phoenix Assurance Co. v. Loetscher*, 215 Ark. 23, 219 S.W.2d 629 (1949) (decision under prior law).

Under a valued policy or the provisions of a valued policy statute, the insured insuring the property at a given valuation, accepted by the insurer at the time of the issuance of the policy as the value of the insured's interest, may recover the full value insured even though he in fact has a limited or qualified interest worth less than the amount of the insurance, and the insurer may not go behind the policy and show the insured's interest is worth less than the amount of the policy. *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law).

Where a total loss is involved, a clause which diminishes recovery to less than the full amount stated in the policy, is void. *Thurston Nat'l Ins. Co. v. Dowling*, 259 Ark. 597, 535 S.W.2d 63 (1976).

Evidence.

A policy of insurance on a building is a liquidated demand in case of total loss and evidence of value or determination of value by jury is unnecessary. *American Cent. Ins. Co. v. Noe*, 75 Ark. 406, 88 S.W. 572 (1905); *Farmers Union Mut. Ins. Co. v. Jordan*, 200 Ark. 711, 140 S.W.2d 430 (1940) (preceding decisions under prior law).

Fraud, Misrepresentations, Etc.

Former section did not prevent consideration of difference between amount of insurance and real value of property under defense that policy was fraudulently obtained and insured burned the property. *Garmon v. Home Ins. Co.*, 197 Ark. 1102, 126 S.W.2d 621 (1939) (decision under prior law).

In case of total loss of the property insured under a valued policy, the valuation of a policy is conclusive on the parties in absence of a showing of fraud, misrepresentation, mistake or criminal conduct on the part of the insured. *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law).

Where there was substantial evidence to support the jury's finding that insured made no fraudulent concealment or false representation concerning the value of his property or his interest therein, insured was entitled to recover the face value of the policy upon destruction of the structure by fire. *Tedford v. Security State Fire Ins. Co.*, 224 Ark. 1047, 278 S.W.2d 89 (1955) (decision under prior law).

There was no substantial evidence that the insured fraudulently misrepresented the value of his house and thereby induced the insurer to issue its policy of insurance greatly in excess of the value of the dwelling. *Farm Bureau Mut. Ins. Co. v. Parks*, 266 Ark. 454, 585 S.W.2d 936 (1979).

Where the buyer of a house that was totally destroyed by a fire lost the amount of the insurance policy which would have been owed to her due to her reliance upon the seller's agent's misrepresentations that the policy was paid up, the buyer was entitled to recover from the seller the full amount which would have been paid under the insurance policy. *Blount v. McCurdy*, 267 Ark. 989, 593 S.W.2d 468 (Ct. App. 1980).

Insurable Interest.

Plaintiff mortgagor was entitled to the face value of the property in the policy for the total destruction of the home by fire, less the amount paid to the mortgagee to satisfy the loan, because the plaintiff had insurable interest in the insured property. *Gravning v. American Druggists' Ins. Co.*, 259 Ark. 523, 534 S.W.2d 754 (1976).

Where the purchaser of the land conceded that the insured retained ownership of the house involved, insured had an insurable interest in the house. *Farm Bureau Mut. Ins. Co. v. Hardage*, 266 Ark. 767, 587 S.W.2d 836 (Ct. App. 1979).

Proof of Loss.

The insured's failure to make proof of a total loss of his residence within the time specified for making proof thereof under the policy did not defeat a recovery under the policy where the evidence established that the insured reported his loss promptly. *American Ins. Co. v. Rector*, 172 Ark. 767, 290 S.W. 367 (1927) (decision under prior law).

Reformation of Policy.

Since former section became part of every policy on real estate, it was not error to refuse to reform a policy by writing therein a clause including such section in express terms. *E.O. Barnett Bros. v. Western Assurance Co.*, 143 Ark. 358, 220 S.W. 465 (1920) (decision under prior law).

Secured Party.

A secured party who qualifies as an insured is entitled to the benefit of the valued policy statute. *Sphere Drake Ins. Co. v. Bank of Wilson*, 312 Ark. 540, 851 S.W.2d 430 (1993).

Separate Actions.

In a suit to recover on a fire policy covering both his dwelling and the household contents, a homeowner could not subdivide the insuring clauses with respect to the dwelling and household contents as separate causes of action. *Lisenby v. Farm Bureau Mut. Ins. Co.*, 245 Ark. 144, 431 S.W.2d 484 (1968); *MFA Mut. Ins. Co. v. Pearrow*, 249 Ark. 542, 459 S.W.2d 798 (1970).

Settlement.

Recovery of full amount on policy was proper although adjuster and insured had agreed to settlement for less than that sum where company refused to carry out such agreement denying any liability. *National Union Fire Ins. Co. v. Kent*, 163 Ark. 7, 259 S.W. 370 (1924) (decision under prior law).

A compromise settlement for less than the face of the policy was void. *Coddington v. Safeguard Ins. Co.*, 237 Ark. 457, 373 S.W.2d 413 (1963).

Total Loss.

There was a total loss where only the walls were left standing and were in such condition that the walls could not be used in restoring building to original condition. *Conley v. Fidelity-Phenix Fire Ins. Co.*, 102 F. Supp. 474 (W.D. Ark. 1952) (decision under prior law).

Cited: *McCorkle v. Valley Forge Ins. Co.*, 11 Ark. App. 41, 665 S.W.2d 898 (1984); *Metropolitan Property & Liab. Ins. Co. v. Stancel*, 16 Ark. App. 91, 697 S.W.2d 923 (1985); *Bennett v. Allstate Ins. Co.*, 889 F.2d 776 (8th Cir. 1989).

23-88-102. Paying costs of volunteer fire department services.

(a) The amount charged by a volunteer fire department for the cost of its services in responding to a fire on or an emergency call concerning the property of a nonmember within its district shall not exceed an amount equal to the fair market value of the service rendered, except that a claim for services in responding to a fire involving only personal property shall be allowed only for personal property of nonmembers, and the claimed amount shall not exceed three hundred dollars (\$300).

(b)(1) When a volunteer fire department responds to a fire occurring or responds to a 911 or other fire emergency call within its district and the property which is the subject of the alarm is owned by a nonmember and insured in case of any damage resulting from a fire, the insurance company insuring the property against loss shall pay to the volunteer fire department the fair market value of its services from the insurance proceeds.

(2) Notice to both the insurance company and to the insured nonmember by the volunteer fire department for its costs of services shall be by certified mail within ten (10) days after the date of the services rendered.

(c)(1)(A) In the event a nonmember desires to contest an assessment, the nonmember may notify the fire department board of his or her objection to the assessment, and the fire department board shall file a civil suit in the nearest district court within ten (10) days asking for the amount claimed by the fire department.

(B) The district court shall give a hearing on the matter within ten (10) days to determine if the amount claimed is fair compensation for the services rendered.

(2) If the amount of the assessment is contested in district court, the fire department shall immediately notify the insurer of the nonmember's property, by certified mail, and the insurer shall upon notification pay into the registry of the court an amount equal to the assessment made by the volunteer fire department for fire services.

(d) The insurer shall not be liable for any amount of money which exceeds the face amount of the policy unless the provisions of the policy provide otherwise.

History. Acts 1987, No. 836, § 2; 1991, No. 984, §§ 1, 2; 1997, No. 1150, § 5.

Publisher's Notes. Former § 23-88-102, concerning costs of rural volunteer fire department as claim against insurance proceeds, was repealed by Acts 1987,

No. 836, § 5. The former section was derived from Acts 1985, No. 1088, § 1; A.S.A. 1947, § 20-950.

Acts 1987, No. 836, § 2, is also codified as § 20-22-902.

23-88-103. Rate credits or reduced rates in rural fire protection districts or areas.

(a)(1) It is found and determined by the General Assembly that:

(A) Rural fire protection districts are beneficial to all property owners in the districts;

(B) Many of the districts are financed wholly or in part by dues or subscription payments made by members of the district;

(C) Some owners of property in the districts fail or refuse to become members of and pay the dues or subscription charges to the district and that under present law insurance companies are permitted to give nonmember property owners the same rate credit as is granted to paying members of the district; and

(D) The giving of equal rate credit to paying and nonpaying property owners in the district is most inequitable and should be corrected.

(2) Therefore, it is the intent and purpose of this section to prohibit insurers from giving nonpaying property owners in rural fire protection districts the rate credit given paying members of the district.

(b) Any property or casualty insurance company which gives any rate credit or any special reduced rates on risks located in a rural fire protection district or in any area protected by a rural fire department, which district or department is wholly or partially funded by assessments, dues, or subscription payments paid by owners of property located in the district or property owners who are members of an association supporting the rural fire department, shall give the rate credit or reduced rate only on risks insured by persons who pay the appropriate assessment, dues, or subscription payments for support of the district or department.

(c)(1)(A) It is unlawful for any insurance agent or company to knowingly write an initial policy of fire insurance coverage on any risk located in a rural fire protection district or in any area protected by a rural fire department at any special reduced rate or with any rate credit based on the location of the risk in such a district or area without having first obtained from the insured or from the fire department providing service in the district or area evidence showing that a current assessment, dues, or subscription payments for the property to be insured have been paid to the fire department serving the area in which the insured property is located.

(B) The evidence required by the insurer may be, but is not limited to, a receipt, cancelled check, or other valid proof of payment provided by the insured.

(2)(A) If any agent is found by the Insurance Commissioner to have violated the provisions of this subsection, the agent shall be liable for an administrative penalty of one hundred dollars (\$100) for the first violation and five hundred dollars (\$500) for the second violation.

(B) For any subsequent violation, the agent shall be liable for an administrative penalty of five hundred dollars (\$500) plus an amount equal to the difference between the amount of the premium actually charged on the particular policy involved based on the special rate and the amount of premium which would have been charged if the special rate had not been applied.

History. Acts 1985, No. 485, §§ 1, 2; Ex. Sess.), No. 38, § 1; A.S.A. 1947, §§ 66-1985 (1st Ex. Sess.), No. 37, § 1; 1985 (1st Ex. Sess.), No. 3139, 66-3140; Acts 1997, No. 1178, § 1.

23-88-104. Fire protection to be considered in property insurance rating plans.

When making a rate or rule filing, an insurer shall include an impact statement concerning the filing's effect on fire protection in the affected area unless the insurer utilizes a public protection classification system maintained by a licensed advisory organization.

History. Acts 2003, No. 1749, § 1.

23-88-105. Notice required prior to expiration of property insurance policy.

(a) Except for nonpayment of premium, the insurer shall give either a written notice of nonrenewal or an offer of renewal at least thirty (30) days prior to the expiration of the policy's existing term.

(b) The insurer shall send the insured a written notice and the insurance producer written or electronic notice of the offer of renewal under subsection (a) of this section, indicating the new premium and providing a description of any change in deductible or policy provision in the renewal policy.

History. Acts 2003, No. 1790, § 2.

SUBCHAPTER 2 — ANTIARSON APPLICATIONS

SECTION.

23-88-201. Purpose.

23-88-202. Definition.

23-88-203. Issuance of policy or renewal of contract prior to July 4, 1983.

23-88-204. Penalty.

23-88-205. Promulgation of form by Insurance Commissioner.

SECTION.

23-88-206. Mandatory use.

23-88-207. Requirement to enter into insurance contract.

23-88-208. Notification of change in information.

23-88-209. Alternative applications.

23-88-210. Termination of policies or contracts.

Cross References. Fire prevention, § 12-13-101 et seq.

23-88-201. Purpose.

The purpose of this subchapter is to promote the public welfare by reducing the loss of life and fire damage to property caused by the crime of arson by requiring insurance companies to secure antiarson applications from applicants for new policies of property insurance containing information to control the incidence of arson fraud.

History. Acts 1983, No. 359, § 1;
A.S.A. 1947, § 66-5606.

23-88-202. Definition.

As used in this subchapter, “antiarson application” means any application for insurance covering the peril of fire that includes certain questions which shall be answered by the applicant in addition to the basic information normally supplied to an insurer by an applicant.

History. Acts 1983, No. 359, § 2;
A.S.A. 1947, § 66-5607.

23-88-203. Issuance of policy or renewal of contract prior to July 4, 1983.

(a) “Insurance policy” and “contract” shall not be construed to mean a property insurance policy issued prior to July 4, 1983, or contract that is being renewed.

(b) However, assignment of the policy or contract because of the transfer of a major financial interest in the insured real property shall require completion of an antiarson application if otherwise required by this subchapter.

History. Acts 1983, No. 359, § 2;
A.S.A. 1947, § 66-5607.

23-88-204. Penalty.

Any insurer willfully violating the provisions of this subchapter shall be subject to a fine imposed by the Insurance Commissioner of not more than five hundred dollars (\$500).

History. Acts 1983, No. 359, § 6;
A.S.A. 1947, § 66-5611.

23-88-205. Promulgation of form by Insurance Commissioner.

(a) In promulgating the antiarson application form, the Insurance Commissioner shall consider generally recognized two-tier application forms. If the initial first-tier application elicits certain predesignated answers, then the administration of a second-tier supplementary application shall be mandatory.

(b) The two-tier application shall secure the disclosure of information, including, but not limited to:

(1) The name and address of the applicant and any mortgagees and any other parties who have an ownership interest in the property;

(2) The amount of insurance requested and the method of valuation used to establish the amount of insurance;

(3) The dates and selling prices of the property in all real estate transactions involving the property during the last three (3) years;

(4) The applicant's loss history over the last five (5) years with regard to any property in which he or she held an equity interest or a mortgage and when any loss exceeded one thousand dollars (\$1,000) in damages;

(5) All taxes unpaid or overdue for one (1) or more years and any mortgage payments overdue by three (3) months or more;

(6) All current violations of fire, safety, health, building, or construction codes on the property to be insured; and

(7) The present occupancy of the structure.

History. Acts 1983, No. 359, § 2;
A.S.A. 1947, § 66-5607.

23-88-206. Mandatory use.

(a) The use of the antiarson application shall be mandatory for commercial monoline fire policies, designated occupancies, and designated areas of the state, based upon a finding by the Insurance Commissioner, after a public hearing, that the commercial monoline fire policies, the designated occupancies, and the areas of the state have an abnormally high incidence of arson.

(b) However, if the commissioner desires to extend the application of this subchapter to other than commercial monoline fire policies, he or she must first find, after public hearing, that the properties insured through those other types of policies are especially prone to arson.

(c) Designation of any area of the state under this subchapter shall not be deemed a valid reason for refusal to write, for termination, or for nonrenewal of any policy or contract of insurance.

History. Acts 1983, No. 359, § 2;
A.S.A. 1947, § 66-5607.

23-88-207. Requirement to enter into insurance contract.

(a) No insurer may enter into a contract to insure any building, except one (1) to four (4) family owner-occupied dwellings, against the peril of fire to be issued after July 4, 1983, unless the insurer first receives an antiarson application signed and affirmed by the insured, if required by the Insurance Commissioner in accordance with the provisions of this subchapter.

(b)(1) Any antiaarson application required by this subchapter shall be deemed a material part of the insurance policy to which the application pertains.

(2) A material misrepresentation shall be deemed grounds to rescind the insurance policy.

History. Acts 1983, No. 359, § 3;
A.S.A. 1947, § 66-5608.

23-88-208. Notification of change in information.

(a) Policyholders shall notify their insurer of any change in the information contained in the antiarson application, within a period of time to be specified.

(b) A material failure to notify or a material misrepresentation in the notification shall be deemed grounds to rescind the insurance policy.

History. Acts 1983, No. 359, § 3;
A.S.A. 1947, § 66-5608.

23-88-209. Alternative applications.

(a) The Insurance Commissioner may not mandate the use of any applications other than the antiarson application as defined in § 23-88-202. However, the commissioner may mandate alternative antiarson applications pursuant to a finding after a public hearing that:

(1) There exist certain types of policies, certain classes of property, and certain geographic areas of the state which have abnormally high incidences of arson;

(2) The antiarson application described in §§ 23-88-202, 23-88-203, 23-88-205, and 23-88-206 was implemented as respects such types of insurance policies, such classes of property, and areas of the state pursuant to the provisions of this subchapter; and

(3) The use of the antiarson application pursuant to this subchapter failed to substantially decrease the arson problems for those types of insurance policies, classes of property, and geographic areas.

(b) Alternative antiarson applications may be mandated only for the types of insurance policies, types of occupancies, and the areas of the state which would be permissible subjects for the antiarson application authorized by this subchapter.

History. Acts 1983, No. 359, § 4;
A.S.A. 1947, § 66-5609.

CASE NOTES

Cited: Kanning v. Allstate Ins. Cos., 67
Ark. App. 135, 992 S.W.2d 831 (1999).

23-88-210. Termination of policies or contracts.

(a) Despite any other provision of law which limits the time for termination of insurance policies to the contrary, an insurer may terminate any policy or contract of insurance when the antiarson application or any alternative antiarson application, as provided in § 23-88-209, is required at any time within ninety (90) days from the insurer's acceptance of the applications.

(b) The notice of cancellation to the insured shall contain the specific reasons for the termination of the policy, provided that the reasons are not otherwise prohibited by law.

History. Acts 1983, No. 359, § 5;
A.S.A. 1947, § 66-5610.

SUBCHAPTER 3 — RURAL RISK UNDERWRITING

SECTION.

- 23-88-301. Legislative intent.
23-88-302. Definitions.
23-88-303. Arkansas Rural Risk Underwriting Association — Plan of property insurance.
23-88-304. Governing board.

SECTION.

- 23-88-305. Promulgation and approval of plan — Hearing.
23-88-306. Provisions of plan.
23-88-307. Liability of insurer.
23-88-308. Commissioner's powers and duties.
23-88-309. Appeals.

Effective Dates. Acts 1985 (1st Ex. Sess.), No. 25, § 10: June 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered by this Act are inadequate for the protection of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the public peace, health and welfare shall be in full force and effect from and after its passage and approval."

Acts 2003, No. 1326, § 2: Apr. 14, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that fire is one of

the leading causes of loss in the state, and that funding of fire departments is essential to combat these losses. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

23-88-301. Legislative intent.

It is declared by the General Assembly of the State of Arkansas that adequate insurance upon property in the rural areas is necessary to the economic welfare of the state and that while the need for such insurance is increasing, the market for it is not adequate and may become less adequate in the future. It is the purpose of this subchapter to provide a mandatory plan to assure an adequate market for property insurance on insurable risks in the rural areas of Arkansas.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 1; A.S.A. 1947, § 66-6101.

23-88-302. Definitions.

As used in this subchapter:

- (1) "Association" means the Arkansas Rural Risk Underwriting Association established pursuant to the provisions of this subchapter;
- (2) "Commissioner" means the Insurance Commissioner;
- (3) "Insurer" means any person who:

(A) Writes any kind of insurance to which this subchapter applies under § 23-88-303, including the exchange of reciprocal or interinsurance contracts; and

(B) Is licensed to transact insurance in this state;

(4)(A) "Net direct written premiums" means the gross amount of premiums received from policies of insurance issued in this state to which this subchapter applies, less return premiums and dividends paid or credited to policyholders.

(B) "Net direct written premiums" does not include premiums for indemnity reinsurance accepted from other licensed insurers, and there shall be no deduction for premiums for indemnity reinsurance ceded to other insurers; and

(5) "Person" means any individual, corporation, partnership, association, or voluntary organization.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 2; A.S.A. 1947, § 66-6102.

23-88-303. Arkansas Rural Risk Underwriting Association — Plan of property insurance.

(a) All insurers licensed to transact property insurance, as defined in § 23-62-104, shall become members of the Arkansas Rural Risk Underwriting Association.

(b) This association shall provide a plan of property insurance to insurable rural risk applicants. Rural risk applicants are those applicants seeking insurance on risks located in geographic areas to be determined "rural areas" by the governing board, subject to the approval of the Insurance Commissioner.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 3; A.S.A. 1947, § 66-6103.

23-88-304. Governing board.

For the plan or plans there shall be a governing board of seven (7) members to be appointed by the Insurance Commissioner, which shall meet at least annually to review and prescribe operating rules and which shall consist of the following members:

(1) Four (4) members shall be representatives of foreign insurance companies with those members to be appointed for terms of three (3) years; and

(2) Three (3) members shall be representatives of domestic insurance companies with those members to be appointed for terms of three (3) years.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 3; A.S.A. 1947, § 66-6103.

23-88-305. Promulgation and approval of plan — Hearing.

(a) Within sixty (60) days following June 26, 1985, the governing board shall submit the plan to the Insurance Commissioner for his or her approval.

(b) When the plan has been approved by the commissioner, all insurance companies authorized to transact the kinds of insurance set forth in § 23-88-303 shall subscribe to and participate in the plan.

(c) If no plan meeting the purpose set forth in § 23-88-301 is submitted to the commissioner within the period of time specified, the commissioner shall prepare and promulgate a plan meeting those requirements. The commissioner may designate one (1) or more insurers or other agencies to assist him or her in the preparation, operation, and promulgation of a plan.

(d) Notwithstanding the provisions contained in this section, no application shall be submitted to or accepted by the plan until the commissioner has determined, after a hearing, that a need for the implementation of the plan exists.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 4; A.S.A. 1947, § 66-6104.

23-88-306. Provisions of plan.

(a)(1) The plan shall provide for the efficient, economical, and fair administration of the Arkansas Rural Risk Underwriting Association and shall be consistent with the purposes of this subchapter. Therefore, the plan shall include provisions for the equitable apportionment among the association's members of the expenses, profits, and losses arising from the association's rural risk writings.

(2) A member's participation in the association's expenses, profits, and losses shall be in the proportion that the net direct property insurance premiums of each member, written in this state during the preceding calendar year, bears to the aggregate net direct property insurance premiums of all members of the association, written in this state during the preceding calendar year.

(3)(A) The governing board shall be empowered to make assessments as may be necessary to provide funds needed to make payment of all loss claims and expenses of the association.

(B) Assessments during a calendar year may be made up to, but not in excess of, two percent (2%) of each insurer's net direct written premium for the preceding calendar year.

(C) If the maximum assessment in any calendar year results in a deficiency in premiums to losses, assessments may be made in the next and any successive calendar year.

(4) Further, the plan shall provide for an annual credit to members for basic property insurance voluntarily written on rural risks. This dollar credit shall relieve a member wholly or partially from participation in the association's expenses and losses.

(b) The plan shall also establish reasonable underwriting standards, subject to the approval of the Insurance Commissioner. Any applicant that meets these standards will be an insurable risk and entitled to property insurance through the association.

(c) The plan shall include deductibles, rules for classification of risks, rate modifications consistent with the objective of providing and maintaining funds sufficient to pay rural risk losses and expenses, and the limits of coverage available.

(d) The commissioner shall assess all members two hundred dollars (\$200) initially for the expenses of mailing fire department renewal subscription notices and such amounts thereafter on an annual basis to meet the costs of the mailings.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 5; A.S.A. 1947, § 66-6105; Acts 2003, No. 1326, § 1.

A.C.R.C. Notes. As enacted by the legislature, Acts 2003, No. 1326, § 1, in-

cluded the following language: "(2) This subsection expires on December 31, 2006."

Amendments. The 2003 amendment added (d).

23-88-307. Liability of insurer.

It being the intention of this subchapter to provide an adequate market for the property insurance coverages defined in this subchapter, no insurer participating in this plan shall be liable for any damages which may result from any extra-contractual liability or for any act or omission of any kind, the insurer's liability being limited solely to the property insurance coverages provided for in this subchapter.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 7; A.S.A. 1947, § 66-6107.

23-88-308. Commissioner's powers and duties.

(a) In addition to approving the plan of operation, the Insurance Commissioner shall have the authority to promulgate rules and regulations necessary to effect the purpose of this subchapter.

(b) Further, after review of annual statements, other reports, and any other statistics which the commissioner deems necessary, the commissioner shall certify to the plan the aggregate net direct property insurance premiums written on property in this state by all members. This information will be used to determine a member's participation.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 8; A.S.A. 1947, § 66-6108.

23-88-309. Appeals.

Any applicant for a policy, any persons insured under the plan, and any agency or insurer affected by the plan may appeal to the Insurance Commissioner any ruling or decision of the governing board or the authorized representative designated to operate a plan.

History. Acts 1985 (1st Ex. Sess.), No. 25, § 6; A.S.A. 1947, § 66-6106.

SUBCHAPTER 4 — FIRE LOSS REPORTING ACT OF 2003

SECTION.

23-88-401. Title.

23-88-402. Annual information concerning fire-related losses.

23-88-403. Proprietary information.

SECTION.

23-88-404. Notice regarding fire protection.

23-88-405. Rules and regulations.

Effective Dates. Acts 2003, No 1345, § 6: Apr. 14, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that fire is the leading cause of insurance loss in the state; that the number of deaths due to fire are a major economic burden to the citizens and counties of this state; and that specific county by county fire loss data will help the counties better evaluate the preparedness and effectiveness of their fire fighting capabilities.

Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

23-88-401. Title.

This subchapter may be referred to as the "Fire Loss Reporting Act of 2003".

History. Acts 2003, No. 1345, § 1.

23-88-402. Annual information concerning fire-related losses.

(a) Any insurance company licensed to write property insurance in Arkansas shall file annually with the Insurance Commissioner a statement of its losses related to fire on a county-by-county basis in a form and manner prescribed by the commissioner.

(b) The commissioner shall annually compile the loss information under subsection (a) of this section in an aggregate form by county for dissemination to the General Assembly, state agencies, counties, and the public.

History. Acts 2003, No. 1345, § 2.

23-88-403. Proprietary information.

Information filed under this subchapter by an insurance company with the Insurance Commissioner shall be treated as proprietary information and is exempt from public disclosure except in an aggregate form.

History. Acts 2003, No. 1345, § 3.

23-88-404. Notice regarding fire protection.

(a) In an effort to educate policy holders of the benefits of fire protection, every insurance company shall include in the premium notice to policy holders the following notice:

"IMPORTANT NOTICE REGARDING FIRE PROTECTION

Did you know that the firefighting ability of your Fire Department helps lower your insurance rates? It's true! The better your firefighters are equipped and trained, the better their access to water for fighting fires, the length of time it takes for them to arrive at a fire, are a few of the many factors that have an impact on your property insurance rates. Help your firefighters help you! They need your support, financial and otherwise. Adequate funding is important to improving the protection that may translate to lower premiums!"

(b) The notice prescribed by subsection (a) of this section shall be in 12-point type or larger.

History. Acts 2003, No. 1345, § 4.

23-88-405. Rules and regulations.

The Insurance Commissioner may adopt reasonable rules and regulations to enforce the provisions of this subchapter.

History. Acts 2003, No. 1345, § 5.

CHAPTER 89

CASUALTY INSURANCE

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. AUTOMOBILE LIABILITY INSURANCE GENERALLY.
3. AUTOMOBILE LIABILITY INSURANCE — CANCELLATION AND NONRENEWAL.
4. UNINSURED MOTORIST COVERAGE.
5. AMUSEMENT RIDE AND AMUSEMENT ATTRACTION SAFETY INSURANCE ACT.

RESEARCH REFERENCES

ALR. Liability insurance: failure or refusal of insured to attend trial or to testify as breach of co-operation clause. 9 ALR 4th 218.

No-fault insurance: validity and construction of plans providing for reduction of benefits otherwise payable by amounts receivable from independent collateral sources. 10 ALR 4th 996.

Liability insurer's negligence or bad faith in conducting or failing to conduct defense as ground of liability to insured. 20 ALR 4th 23.

Unlicensed automobile owned by insured as "owned automobile" within language of automobile liability insurance. 21 ALR 4th 918.

Change of named beneficiary of accident

insurance policy by will, effectiveness of. 25 ALR 4th 1164.

Insurance provision covering or excluding watercraft. 26 ALR 4th 967.

Provision of liability insurance policy expressly excluding injuries intended or expected by insured. 31 ALR 4th 957.

Rules requiring liability insurer to show prejudice to escape liability because of insured's failure or delay in giving notice of accident or claim, or in forwarding suit papers. 32 ALR 4th 141.

Clause of product liability insurance policy excepting from coverage cost of product recall or withdrawal of product from market. 32 ALR 4th 630.

Coverage and exclusions of liability or indemnity policy on physicians, surgeons, and other healers. 33 ALR 4th 14.

Intoxication or other mental incapacity avoiding application of clause in liability insurance policy specifically exempting coverage of injury or damage caused intentionally by or at direction of insured. 33 ALR 4th 983.

No-fault insurance: apportionment of benefits between insurers providing coverage to same insured under policies covering different vehicles. 34 ALR 4th 374.

Right of insurer issuing "uninsured motorist" coverage to intervene in action by insured against uninsured motorist. 35 ALR 4th 757.

"Occurrence" and "discovery" or "claims made" liability policies, event as occurring within period of coverage of. 37 ALR 4th 382.

Fire, theft, and collision insurance on stolen motor vehicles. 38 ALR 4th 538.

Construction and application of pollu-

tion exclusion clause in liability insurance policy. 39 ALR 4th 1047.

No-fault insurer: necessity and permissibility of naming as defendant where insured automobile owner or operator is not liable for economic losses under no-fault insurance law. 40 ALR 4th 858.

Cancellation of compulsory or "financial responsibility" automobile insurance. 44 ALR 4th 13.

Self-insurance against liability as other insurance within meaning of liability insurance policy. 46 ALR 4th 707.

Who is "employed or engaged in the automobile business" within the exclusionary clause of liability policy. 55 ALR 4th 261.

What constitutes use of vehicle "in the automobile business" within exclusionary clause of liability policy. 56 ALR 4th 300.

What constitutes "entering or alighting from" vehicle within meaning of insurance policy, or statute mandating insurance coverage. 59 ALR 4th 149.

Automobile insurance provision or statute automatically terminating coverage when insured obtains another policy providing similar coverage. 61 ALR 4th 1130.

What constitutes single accident or occurrence within liability policy limiting insurer's liability to a specified amount per accident or occurrence. 64 ALR 4th 668.

What constitutes theft within automobile theft insurance policy — Modern cases. 67 ALR 4th 82.

Ark. L. Rev. Procedure — Discovery — Amount of Adversary's Insurance, 20 Ark. L. Rev. 376.

UALR L.J. Arkansas Law Survey, Stewart, Insurance, 8 UALR L.J. 183.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-89-101. Subrogation of injured person to right of insured.

SECTION.

23-89-102. Insolvency of insured does not release liability insurer.

Cross References. Manner of payment of claims, § 23-63-107.

Property and Casualty Insurance Policy Simplification Act, § 23-80-301 et seq.

23-89-101. Subrogation of injured person to right of insured.

(a) Any policy of insurance issued or delivered in this state indemnifying any person against any actual money loss sustained by the person for damages inflicted upon the property or person of another shall contain a provision that the injured person, or his or her personal representative, shall be subrogated to the right of the insured named in the policy.

(b) The policy shall also contain a provision that the injured person, or his or her personal representative, whether the provision is actually inserted in the policy or not, may maintain a direct cause of action against the insurer issuing the policy for the amount of the judgment rendered against the insured, not exceeding the amount of the policy, provided the judgment remains unsatisfied at the expiration of thirty (30) days from the serving of notice of entry of judgment upon the attorney for the insured or upon the insured or upon the insurer.

History. Acts 1959, No. 148, § 447;
A.S.A. 1947, § 66-4001.

RESEARCH REFERENCES

Am. Jur. 7 Am. Jur. 2d, Auto Ins., §§ 53, 190-204.

UALR L.J. Note, Insurance — Subrogation — A Subrogation Clause in a Health Insurance Policy is Enforceable

Even Though the Insured Has Not Been Made Whole. Higginbotham v. Arkansas Blue Cross & Blue Shield, 312 Ark. 199 (1993), 16 UALR L.J. 475.

CASE NOTES

ANALYSIS

Construction.

Purpose.

Applicability.

Conditions precedent to recovery.

Conditions precedent to suit.

Direct cause of action.

Effect of judgment.

Garnishment.

Insured party.

Penalty and attorney fees.

Protected parties.

Rights of injured party.

Venue.

Construction.

The wording "... unsatisfied at the expiration of thirty (30) days from the serving of notice of entry of judgment..." means 30 days from the entry of final judgment as described by A.R.A.P., Rule 4. Simmons First Nat'l Bank v. Liberty Mut. Ins. Co., 282 Ark. 194, 667 S.W.2d 648 (1984).

Purpose.

The manifest purpose of the direct action statute is to protect the rights of the injured plaintiff and not the rights of the insurance company or the insured. Southern Farm Bureau Cas. Ins. Co. v. Robinson, 236 Ark. 268, 365 S.W.2d 454 (1963) (decision under prior law).

Applicability.

Before this section becomes applicable, the injured person must have recovered a judgment against the insured tortfeasor which remains unsatisfied for thirty days. Jarboe v. Shelter Ins. Co., 317 Ark. 395, 877 S.W.2d 930 (1994).

Conditions Precedent to Recovery.

Before this section is applicable, the injured person must have recovered a judgment against the wrongdoer and such judgment must have remained unsatisfied at the expiration of 30 days from the serving of the notice of entry of judgment upon the attorney for the insured or upon

the insured or upon the insurer. *Swan v. Estate of Monette ex rel. Monette*, 265 F. Supp. 362 (W.D. Ark. 1967), *aff'd*, 400 F.2d 274 (8th Cir. 1968); *National Sec. Fire & Cas. Co. v. Poskey*, 309 Ark. 206, 828 S.W.2d 836 (1992).

This section does not require the issuance of a writ of execution and its return *nulla bona* as a condition precedent to injured party's direct action against the liability insurer. *Blevins v. Commercial Std. Ins. Cos.*, 544 F.2d 967 (8th Cir. 1976).

Conditions Precedent to Suit.

Where injured person has right to sue insurer conditioned upon unsatisfied judgment against insured, the obtaining of the judgment and the unsuccessful efforts to collect it are conditions precedent to cause of action. *Spann v. Commercial Std. Ins. Co.*, 82 F.2d 593 (8th Cir. 1936) (decision under prior law).

Direct Cause of Action.

Where a party injured in an automobile accident sought a judgment declaring insurance coverage of the tortfeasor, the action was not a direct action against the insurance company and the circuit court was not prohibited from hearing the complaint by § 23-79-210 or this section. *National Sec. Fire & Cas. Co. v. Poskey*, 309 Ark. 206, 828 S.W.2d 836 (1992).

Effect of Judgment.

In the absence of proof that injured party's judgment against the insured was procured by fraud, collusion, or bad faith, the liability insurer was bound by the judgment under *res judicata* principles in injured party's direct action against the insurer. *Blevins v. Commercial Std. Ins. Cos.*, 544 F.2d 967 (8th Cir. 1976).

Garnishment.

Garnishment does not lie against a liability insurance corporation after a judgment has been rendered against the insured; but the insured may maintain a direct action against the liability insurance carrier. *Wood v. Bennett*, 176 F. Supp. 205 (W.D. Ark. 1959) (decision under prior law).

Insured Party.

Where the automobile driven by minor at time of accident had been loaned by the owner to minor's parents, the court's finding that the minor was an insured within the terms and coverage of insurer's liability

policy to owner was not clearly erroneous despite owner's testimony that he had expressly restricted the use of the loaned automobile to adults. *Blevins v. Commercial Std. Ins. Cos.*, 544 F.2d 967 (8th Cir. 1976).

Penalty and Attorney Fees.

A party who prevails under this section may, in some circumstances, be entitled to the statutory penalty and attorney's fee under § 23-79-208. *Simmons First Nat'l Bank v. Liberty Mut. Ins. Co.*, 282 Ark. 194, 667 S.W.2d 648 (1984).

Protected Parties.

Servant held to constitute an insured under the policy since he was driving truck with implied permission of the insured. *Traders & Gen. Ins. Co. v. Powell*, 177 F.2d 660 (8th Cir. 1949) (decision under prior law).

The defendant insurance company was entitled to a summary judgment in an action for injuries received by the plaintiff-employee where the liability policy excluded coverage of employees of the insured with respect to injuries to other employees injured in the course of such employment. *Bryan v. Aetna Cas. & Sur. Co.*, 381 F.2d 872 (8th Cir. 1967).

Suit by plaintiff insurer as subrogee of insured against primary insurers for their share of settlement was not prevented by this section since the action was not by or to enforce the rights of the injured person. *Trinity Universal Ins. Co. v. State Farm Mut. Auto Ins. Co.*, 246 Ark. 1021, 441 S.W.2d 95 (1969).

A creditor of an injured person who had obtained a judgment against the insured may not maintain an action against the insurer for the unpaid portion of the judgment even if the insurer had negligently or in bad faith refused to settle the claim against the insured for an amount within the limits of the policy. *Greer v. Mid-West Nat'l Fire & Cas. Ins. Co.*, 305 F. Supp. 352 (E.D. Ark. 1969), *aff'd*, 434 F.2d 215 (8th Cir. 1970).

Rights of Injured Party.

The rights of the injured person against an insurer under an automobile public liability and property damage policy cannot be destroyed by any actions of the insured and insurer attempting subsequently to cancel, release, or compromise notwithstanding that the third party's

right to sue the insurer is conditioned on an unsatisfied judgment against the insured. *Spann v. Commercial Std. Ins. Co.*, 82 F.2d 593 (8th Cir. 1936) (decision under prior law).

Rights of injured person in regard to insurance rise no higher than those of the insured, but there is no obligation to give notice. *Maryland Cas. Co. v. Waggoner*, 193 Ark. 550, 101 S.W.2d 451 (1937) (decision under prior law).

The judgment creditor of a tort judgment against the holder of a public liability policy cannot, after the payment by the insurer of the face of the policy toward satisfaction of the judgment, sue the insurer for the excess on the ground that the insurer is liable to the policyholder for such excess because of bad faith refusal before the trial to settle the plaintiff's claim within the limits of the policy. *Greer v. Mid-West Nat'l Fire & Cas. Ins. Co.*, 434 F.2d 215 (8th Cir. 1970).

In action against insurers of the owner of the vehicle involved in a rear-end collision,

the injured person stands in the shoes of the insured regarding the defense of failing to cooperate. *Southern Farm Bureau Cas. Ins. Co. v. Jackson*, 262 Ark. 152, 555 S.W.2d 4 (1977).

Venue.

This section is a subrogation statute and the action permitted by it is contractual in nature and not for personal injury; thus, venue is determined not by § 16-60-112 but by § 16-60-116 or § 23-79-204. *Equity Fire & Cas. Ins. Co. v. Coleman*, 326 Ark. 100, 928 S.W.2d 796 (1996).

Cited: *Aufderhar v. American Employers Ins. Co.*, 331 F.2d 681 (8th Cir. 1964); *Great Am. Ins. Co. v. Ratliff*, 242 F. Supp. 983 (E.D. Ark. 1965); *Taylor v. Federal Kemper Ins. Co.*, 534 F. Supp. 196 (W.D. Ark. 1982); *Williams v. State Farm Mut. Auto. Ins. Co.*, 737 F.2d 741 (8th Cir. 1984); *Daves v. Hartford Accident & Indem. Co.*, 302 Ark. 242, 788 S.W.2d 733 (1990).

23-89-102. Insolvency of insured does not release liability insurer.

(a) No policy of insurance against loss or damage resulting from accident to or injury suffered by an employee or other person and for which the person insured is liable or against loss or damage to property caused by horses or by any vehicles drawn, propelled, or operated by any motive power and for which loss or damage the person insured is liable shall be issued or delivered to any person in this state unless the policy contains a provision that the insolvency or bankruptcy of the person insured shall not release the insurer from the payment of damages for injury sustained or loss occasioned during the life of the policy.

(b) The policy must also state that in case execution against the insured is returned unsatisfied because of the insolvency or bankruptcy, in an action brought by the injured or his or her personal representative in case death results from the accident, then an action may be maintained by the injured person or his or her personal representative against the insurer under the terms of the policy for the amount of the judgment in the action not exceeding the amount of the policy.

History. Acts 1959, No. 148, § 448; A.S.A. 1947, § 66-4002.

RESEARCH REFERENCES

Ark. L. Rev. Uninsured Motorist Insurance Offset for Workmen's Compensation Benefits, 26 Ark. L. Rev. 570.

CASE NOTES

ANALYSIS

Appeals.
Bankruptcy.
Defenses.
Direct action against insured.
Interest.
Policy provisions.

Appeals.

Where all the conditions of former similar section were met, an appeal without supersedeas did not suspend the right of a plaintiff to proceed against the insurer of an insolvent defendant. *Cassidy v. Southern Farm Bureau Cas. Ins. Co.*, 135 F. Supp. 757 (W.D. Ark. 1955) (decision under prior law).

Bankruptcy.

This section provides that an insurer's liability is not affected by the insured's insolvency; the filing of a petition in bankruptcy is not the type of immunity contemplated by § 23-79-210. *Jarboe v. Shelter Ins. Co.*, 317 Ark. 395, 877 S.W.2d 930 (1994).

Defenses.

Insurance company had a right to make the defense that the policy did not cover the situation of which the injury arose. *Equity Mut. Ins. Co. v. Southern Ice Co.*, 232 Ark. 41, 334 S.W.2d 688 (1960) (decision under prior law).

Direct Action Against Insured.

Where automobile liability policy provided that the insured's insolvency would not release the insurer from liability and that an injured person may sue the in-

surer for the amount of judgment against the insured if execution is returned unsatisfied, a third party injured was not entitled to bring a direct action against an insurer before recovering judgment against the insured, though the latter was insolvent. *Universal Auto. Ins. Co. v. Denton*, 185 Ark. 899, 50 S.W.2d 592 (1932) (decision under prior law).

Interest.

Where execution on judgment against tortfeasor was returned unsatisfied and the judgment creditor then obtained judgment against the defendant's insurer, judgment creditor was entitled to interest on the original judgment. *Southern Farm Bureau Cas. Ins. Co. v. Robinson*, 238 Ark. 159, 379 S.W.2d 8 (1964) (decision under prior law).

Policy Provisions.

As a matter of law, if the conditions stated in former section were not contained in the policy of insurance, the law implied that the policy was issued with reference to the statute and the legal effect is the same if the statutory conditions were actually and fully complied with. *Cassidy v. Southern Farm Bureau Cas. Ins. Co.*, 135 F. Supp. 757 (W.D. Ark. 1955) (decision under prior law).

Cited: *State Farm Mut. Auto. Ins. Co. v. Pennington*, 215 F. Supp. 784 (E.D. Ark. 1963), *aff'd*, 324 F.2d 340 (8th Cir. 1963); *Great Am. Ins. Co. v. Ratliff*, 242 F. Supp. 983 (E.D. Ark. 1965); *Greer v. Mid-West Nat'l Fire & Cas. Ins. Co.*, 305 F. Supp. 352 (E.D. Ark. 1969), *aff'd*, 434 F.2d 215 (8th Cir. 1970).

SUBCHAPTER 2 — AUTOMOBILE LIABILITY INSURANCE GENERALLY

SECTION.

23-89-201. Broader-than-minimum benefits not prohibited.
23-89-202. Required first party coverage.
23-89-203. Rejection of coverage.

SECTION.

23-89-204. Coverage for passengers and persons struck by insured vehicle.
23-89-205. Exclusion of benefits.

SECTION.

- 23-89-206. Retention of tort liability.
 23-89-207. Insurer's right of reimbursement.
 23-89-208. Payments.
 23-89-209. Underinsured motorist coverage.
 23-89-210. Premium reduction for college graduates.

SECTION.

- 23-89-211. Total loss settlements.
 23-89-212. Motor vehicle liability insurance — Extraterritorial provision.
 23-89-213. Premium delinquencies.
 23-89-214. Motor vehicle liability insurance — Prohibition regarding step-downs.

A.C.R.C. Notes. References to "this subchapter" in §§ 23-89-201 — 23-89-209, 23-89-212, and 23-89-214 may not apply to §§ 23-89-210, 23-89-211, and 23-89-213 which were enacted subsequently.

Effective Dates. Acts 1973, No. 138, § 11: July 1, 1974.

Acts 1991, No. 209, § 5: Feb. 21, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present underinsured motorist insurance coverage law is being misinterpreted; that under the present misinterpretation persons covered by underinsured motorist coverage may not receive the benefits intended by the law; and that this act clarifies the law and should therefore go into effect immediately in order to resolve the misinterpretation as soon as possible. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1123, § 25: Apr. 9, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety all provisions of this Act other than Section 22 shall be in full force and effect from and after July 1, 1991 and Section 22 shall be in full force and effect from and after the passage and approval of this Act."

Acts 1993, No. 1180, § 7: Apr. 15, 1993. Emergency clause provided: "An emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 527, § 6: Mar. 6, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present insurance laws should be clarified to indicate that once an insured has rejected certain automobile insurance that the insurer should not be required thereafter to notify the insured of the availability of the rejected coverage at such time as the coverage not rejected is renewed, reinstated, substituted, amended, or replaced; that this act so provides; and this act should go into effect immediately in order to clarify the law as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2003, No. 458, § 2: Mar. 18, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current Arkansas law does not specify that an insurer must pay sales tax when it settles a claim for damages to an automobile as a total loss; that Arkansas law does not make an insurer's failure to pay sales tax when settling a claim for total automobile loss an unfair trade practice; that Arkansas law is not in accord with current insurance regulations concerning settlements for total automobile losses; and that this act is immediately necessary to protect Arkansas insurance consumers and to conform Arkansas law to existing insurance regulations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may

veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003, No. 998, § 4: July 1, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the lack of compliance with the motor vehicle liability insurance law is epidemic in this state; that the owners of motor vehicles that have not complied with mandatory insurance requirements increase the potential financial catastrophe to others involved in

accidents with them; that this act is designed and intended to provide enforcement provisions and to ensure increased compliance with the motor vehicle liability insurance law of this state; and that the enactment of new and enhanced penalties and requirements will increase compliance with the motor vehicle liability insurance law. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

RESEARCH REFERENCES

Am. Jur. 7 Am. Jur. 2d, Auto. Ins., § 1 et seq.

23-89-201. Broader-than-minimum benefits not prohibited.

Nothing contained in this subchapter shall be construed to prevent an insurer from providing broader benefits than the minimum benefits enumerated in § 23-89-202.

History. Acts 1973, No. 138, § 7; A.S.A. 1947, § 66-4020.

CASE NOTES

Cited: Aetna Ins. Co. v. Smith, 263 Ark. 849, 568 S.W.2d 11 (1978).

23-89-202. Required first party coverage.

Every automobile liability insurance policy covering any private passenger motor vehicle issued or delivered in this state shall provide minimum medical and hospital benefits, income disability, and accidental death benefits, under policy provisions and on forms approved by the Insurance Commissioner, to the named insured and members of his or her family residing in the same household injured in a motor vehicle accident, to passengers injured while occupying the insured motor vehicle, and to persons other than those occupying another vehicle struck by the insured motor vehicle, without regard to fault, as follows:

(1) **MEDICAL AND HOSPITAL BENEFITS.** All reasonable and necessary expenses for medical, hospital, nursing, dental, surgical, ambulance, funeral expenses, and prosthetic services incurred within twenty-four (24) months after the automobile accident, up to an aggregate of five thousand dollars (\$5,000) per person and may include any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. Expenses for hospital room charges may be limited to semiprivate accommodations;

(2) **INCOME DISABILITY BENEFITS.** Seventy percent (70%) of the loss of income from work during a period commencing eight (8) days after the date of the accident, and not to exceed fifty-two (52) weeks, but subject to a maximum of one hundred forty dollars (\$140) per week. In the case of a nonincome earner, the benefits shall consist of expenses not to exceed seventy dollars (\$70.00) per week, or any fractional part of a week, which are reasonably incurred for essential services in lieu of those the injured person would have performed without income during a period commencing eight (8) days after the date of the accident and not to exceed fifty-two (52) weeks; and

(3) **ACCIDENTAL DEATH BENEFITS.** The sum of five thousand dollars (\$5,000), to be paid to the personal representative of the insured, should injury, sickness, or disease resulting from an automobile accident cause death within one (1) year from the date of the accident.

History. Acts 1973, No. 138, § 1; 1981, No. 802, § 1; A.S.A. 1947, § 66-4014; Acts 1987, No. 336, § 1.

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1990 Insurance Law Decisions, 1991 Ark. L. Notes 75.

UALR L.J. Survey — Insurance, 10 UALR L.J. 217.

Chamberlin & Holt, Why Arkansas Should Overturn its Anti-Stacking Precedent: A Look at Aggregating Uninsured and Underinsured Motorist Coverage, 21 UALR L.J. 413.

CASE NOTES

ANALYSIS

In general.

Construction.

Purpose.

Benefits.

Choice of law.

Common law.

Construction of policy.

Coverage permitted.

Liability of insurer.

Occupants of insured vehicle.

Rescission.

Right of setoff.

Time of coverage.

Waiver.

In General.

This section and § 23-89-203 encompass the mandatory offering of coverage accompanied by the right to reject such coverage in whole or in part, not mandatory coverage of any and all risks. *Shelter Gen. Ins. Co. v. Williams*, 315 Ark. 409, 867 S.W.2d 457 (1993).

Construction.

A rejection of no-fault insurance coverage is required when a new declaration occurs which includes a substituted automobile. *Fimpel v. State Auto. Mut. Ins. Co.*, 322 Ark. 797, 911 S.W.2d 950 (1995).

Purpose.

The intent of "no fault" insurance was to make an insured whole on relatively minor automobile injury damage claims without regard to fault or liability and without his being required to engage in expensive and extended litigation; however, the purpose was not to require the same amount of coverage to one injured by the negligence of a motorist who carries no liability insurance as would be available had the motorist had the minimum coverage necessary to meet the requirements of the Motor Vehicle Safety Responsibility Act, set out in § 27-19-605. *Aetna Ins. Co. v. Smith*, 263 Ark. 849, 568 S.W.2d 11 (1978).

Benefits.

In construing a policy provided in accor-

dance with this section, the insurer cannot deduct the amount of medical payments from the accidental death benefits. *Farm Bureau Mut. Ins. Co. v. Parrish*, 265 Ark. 161, 577 S.W.2d 397 (1979).

Payment in excess of the actual loss does not violate this section and, thus, the stacking of benefits is not prohibited; therefore, since neither the policies involved nor this section prohibited payment in excess of actual losses and no public policy argument was made, the insurer was liable on multiple policies for which multiple premiums were collected. *State Farm Mut. Auto. Ins. Co. v. Smith*, 292 Ark. 614, 732 S.W.2d 137 (1987).

Since subdivision (3) mandates that all automobile liability policies include coverage for \$5,000 in accidental death benefits "to be paid to the personal representative of the insured," the natural construction of the words in a policy providing for the payment of death benefits "to any person or organization authorized by law to receive such payment" would be that they authorize payment to the decedent's personal representative, not to his heirs or distributees. *Woolsey v. Nationwide Ins. Co.*, 697 F. Supp. 1053 (W.D. Ark. 1988), modified, 884 F.2d 381 (8th Cir. 1989).

Under subdivision (3), the term "personal representative" includes heirs and next-of-kin. *Woolsey v. Nationwide Ins. Co.*, 884 F.2d 381 (8th Cir. 1989).

Like life insurance proceeds, death benefits should pass directly to the beneficiaries and should not enter the decedent's estate to become subject to claims by the decedent's creditors. *Woolsey v. Nationwide Ins. Co.*, 884 F.2d 381 (8th Cir. 1989).

Choice of Law.

Where the insurance contract was entered into in Arkansas, but the accident occurred in Colorado, injury party was only allowed to recover \$5,000 in no-fault medical coverage as opposed to the \$50,000 in benefits allowed under Colo. Rev. Stat. Ann. § 10-4-706(1)(b) since the no-fault claim was subject to Arkansas law; however, the injured party was not precluded from recovering the remaining medical expenses from the tortfeasor under Colo. Rev. Stat. Ann. § 10-4-713(1). *S. Farm Bureau Cas. Ins. Co. v. Craven*, 79 Ark. App. 423, 89 S.W.3d 369 (2002).

Common Law.

Arkansas compulsory insurance statutes have not abrogated the insurer's com-

mon law right to rescission when: (1) only the insurer and the insured are involved in a noncompulsory provision of the policy, and (2) the policy has been in existence less than 60 days, unless it is a renewal policy. *Ferrell v. Columbia Mut. Ins. Cas. Co.*, 306 Ark. 533, 816 S.W.2d 593 (1991).

Construction of Policy.

If there is doubt or uncertainty as to the policy's meaning and it is fairly susceptible of two interpretations, one favorable to the insured and the other favorable to the insurer, the former will be adopted. *Arkansas Farm Bureau Ins. Fed'n v. Ryman*, 309 Ark. 283, 831 S.W.2d 133 (1992).

Coverage Permitted.

Although this section requires that minimum coverage be provided in all policies, it does not prohibit an insurer from providing broader coverage than that mandated. *National Investors Fire & Cas. Ins. Co. v. Edwards*, 5 Ark. App. 42, 633 S.W.2d 41 (1982).

When benefits are payable to a named insured, in the event that more than one policy has personal injury protection coverage, the insured's own policy shall provide primary coverage; thus, the applicable policy for no-fault benefits was issued by the carrier for the injured party rather than by the carrier for the vehicle in which the injury occurred. *Lawson v. State Farm Mut. Auto. Ins. Co.*, 291 Ark. 391, 725 S.W.2d 543 (1987).

Liability of Insurer.

This section does not impose liability upon the insurance carrier for work loss incurred more than 52 weeks after the accident. *Glenn v. Farmers & Merchants Ins. Co.*, 649 F. Supp. 1447 (W.D. Ark. 1986).

Occupants of Insured Vehicle.

Insureds were not entitled to the medical expense benefits that would have been payable under the coverage provisions for a second vehicle that was not involved in the accident since they could not have been occupants of both vehicles when they were hurt. *Travelers Ins. Co. v. Estes*, 283 Ark. 61, 670 S.W.2d 451 (1984).

Rescission.

Courts may sever compulsory provisions of an insurance policy from noncompulsory provisions and permit rescission only as to noncompulsory provi-

sions. *Ferrell v. Columbia Mut. Ins. Co.*, 306 Ark. 533, 816 S.W.2d 593 (1991).

Right of Setoff.

An automobile insurance carrier cannot, by policy language, set off its medical payments made on behalf of its insured to a third party against its payment for the same insured to the injured party of the policy limit for bodily injury. *State Farm Mut. Auto. Ins. Co. v. Sims*, 288 Ark. 541, 708 S.W.2d 72 (1986).

Time of Coverage.

The date of the accident is the time to determine whether an insurance policy with no-fault coverage is valid and collectible. *Mid-Century Ins. Co. v. Anderson*, 303 Ark. 54, 791 S.W.2d 706 (1990).

Waiver.

The no-fault coverage provided by this section can be waived; a named driver exclusion cannot violate public policy when one realizes that a prospective purchaser of insurance may reject no-fault

insurance altogether. *Shelter Gen. Ins. Co. v. Williams*, 315 Ark. 409, 867 S.W.2d 457 (1993).

Cited: *Northwestern Nat'l Ins. Co. v. American States Ins. Co.*, 266 Ark. 432, 585 S.W.2d 925 (1979); *O'Bar v. MFA Mut. Ins. Co.*, 275 Ark. 247, 628 S.W.2d 561 (1982); *Carnathan v. Farm Bureau Ins. Co.*, 288 Ark. 399, 705 S.W.2d 885 (1986); *Daves v. Hartford Accident & Indem. Co.*, 302 Ark. 242, 788 S.W.2d 733 (1990); *Edens v. Shelter Mut. Ins. Co.*, 923 F.2d 79 (8th Cir. 1991); *Baker v. State Farm Fire & Cas. Co.*, 34 Ark. App. 59, 805 S.W.2d 665 (1991); *Shelter Mut. Ins. Co. v. Irvin*, 309 Ark. 331, 831 S.W.2d 135 (1992); *Shelter Mut. Ins. Co. v. Bough*, 310 Ark. 21, 834 S.W.2d 637 (1992); *State Farm Mut. Auto. Ins. Co. v. Brown*, 48 Ark. App. 136, 892 S.W.2d 519 (1995); *Dean v. Colonia Underwriters Ins. Co.*, 52 Ark. App. 91, 915 S.W.2d 728 (1996); *Southern Farm Bureau Cas. Ins. Co. v. Allen*, 326 Ark. 1023, 934 S.W.2d 527 (1996).

23-89-203. Rejection of coverage.

(a) The named insured shall have the right to reject in writing all or any one (1) or more of the coverages enumerated in § 23-89-202.

(b) After a named insured or applicant for insurance rejects this coverage, the insurer or any of its affiliates shall not be required to notify any insured in any renewal, reinstatement, substitute, amended, or replacement policy as to the availability of such coverage.

History. Acts 1973, No. 138, § 2; A.S.A. 1947, § 66-4015; Acts 1995, No. 527, § 1.

CASE NOTES

ANALYSIS

In general.

Legislative intent.

Retroactivity.

Substitution of vehicle.

Waiver.

In General.

This section and § 23-89-202 encompass the mandatory offering of coverage accompanied by the right to reject such coverage in whole or in part, not mandatory coverage of any and all risks. *Shelter Gen. Ins. Co. v. Williams*, 315 Ark. 409, 867 S.W.2d 457 (1993).

Legislative Intent.

Even though this section, in 1994, provided that a rejection would be effective for policy renewals, that language did not precisely embrace renewals when vehicles have been substituted; had the General Assembly desired to expand single-rejection concept to substituted vehicles as well as to simple renewals of existing coverage, it could easily have done so, but it had not yet done so. *Fimpel v. State Auto. Mut. Ins. Co.*, 322 Ark. 797, 911 S.W.2d 950 (1995).

Retroactivity.

Even though General Assembly

amended this section to clarify insurer's duty with regard to notifying insureds of no-fault and uninsured motorist coverage when there is a substitution of coverage, it would be patently unfair to sanction a legislative clarification of a preexisting statute when the Supreme Court had previously construed the effect of mandatory coverage on substituted vehicles contrary to the purported clarification; thus, where motorist was injured in the accident on July 24, 1994, the version of this section as it existed on that date would apply. *Fimpel v. State Auto. Mut. Ins. Co.*, 322 Ark. 797, 911 S.W.2d 950 (1995).

Substitution of Vehicle.

Where 1978 Oldsmobile Ninety-Eight was included in the 1994 insurance declaration sent to motorist prior to accident involving that vehicle, this equated to delivery of a new policy on the substituted covered vehicle and a rejection of no-fault insurance was required at that time; fail-

ure to obtain a rejection of the coverage with respect to the 1978 Oldsmobile Ninety-Eight resulted in no-fault coverage being in effect in 1994 pursuant to this section. *Fimpel v. State Auto. Mut. Ins. Co.*, 322 Ark. 797, 911 S.W.2d 950 (1995).

Waiver.

The no-fault coverage provided by § 23-89-202 can be waived; a named driver exclusion cannot violate public policy when one realizes that a prospective purchaser of insurance may reject no-fault insurance altogether. *Shelter Gen. Ins. Co. v. Williams*, 315 Ark. 409, 867 S.W.2d 457 (1993).

Cited: *O'Bar v. MFA Mut. Ins. Co.*, 275 Ark. 247, 628 S.W.2d 561 (1982); *Carnathan v. Farm Bureau Ins. Co.*, 288 Ark. 399, 705 S.W.2d 885 (1986); *Glenn v. Farmers & Merchants Ins. Co.*, 649 F. Supp. 1447 (W.D. Ark. 1986); *Southern Farm Bureau Cas. Ins. Co. v. Allen*, 326 Ark. 1023, 934 S.W.2d 527 (1996).

23-89-204. Coverage for passengers and persons struck by insured vehicle.

(a) The coverages provided in § 23-89-202 shall apply only to occupants of the insured vehicle and to persons struck by the insured vehicle, including pedestrians, bicyclists, motorcyclists, persons in a horse-drawn wagon or cart, and persons riding on an animal, and to none other.

(b) However, the coverages shall not be applicable, or payable, if the prescribed minimum coverages are afforded to those occupants and to persons struck by the insured vehicle, either as a named insured or additional insured under another valid and collectible automobile insurance policy.

History. Acts 1973, No. 138, § 3; A.S.A. 1947, § 66-4016.

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1990 Insurance Law Decisions, 1991 Ark. L. Notes 75.

CASE NOTES

ANALYSIS

Business premises exclusion.
Double recovery prohibited.
Occupants of insured vehicle.

Primary coverage.
Time of coverage.

Business Premises Exclusion.

Where insured was injured when a car crashed into the wall of her business, the

trial court properly granted summary judgment for the insurance company which denied the insured underinsured motorist coverage and personal injury protection coverage based upon the clear and unambiguous terms of the policy's business premises exclusion. *Harasyn v. St. Paul Guardian Ins. Co.*, 349 Ark. 9, 75 S.W.3d 696 (2002).

Double Recovery Prohibited.

Provision in insurance policy that its coverage would be excess insurance if the insured had other like insurance and would apply only to the extent that the other insurance was less than the statutory amount was not against public policy since this section expressly prohibits double recovery by a passenger's estate. *MFA Mut. Ins. Co. v. Van Driesum*, 282 Ark. 24, 665 S.W.2d 286 (1984).

The estate of an insured passenger who was killed while riding in an insured car could not recover the death benefit from both the decedent's own insurer and the driver's insurer. *MFA Mut. Ins. Co. v. Van Driesum*, 282 Ark. 24, 665 S.W.2d 286 (1984).

Occupants of Insured Vehicle.

Insureds were not entitled to the medical expense benefits that would have been payable under the coverage provisions for a second vehicle that was not involved in

the accident since they could not have been occupants of both vehicles when they were hurt. *Travelers Ins. Co. v. Estes*, 283 Ark. 61, 670 S.W.2d 451 (1984).

When benefits are payable to a named insured, in the event that more than one policy has personal injury protection coverage, the insured's own policy shall provide primary coverage; thus, the applicable policy for no-fault benefits was issued by the carrier for the injured party rather than by the carrier for the vehicle in which the injury occurred. *Lawson v. State Farm Mut. Auto. Ins. Co.*, 291 Ark. 391, 725 S.W.2d 543 (1987).

Primary Coverage.

Where an injured party had a valid and collectible policy that included no-fault coverage on the date of the accident, it was primary in coverage responsibility; therefore, the no-fault coverage of the driver of the other vehicle is not applicable in accordance with this section. *Mid-Century Ins. Co. v. Anderson*, 303 Ark. 54, 791 S.W.2d 706 (1990).

Time of Coverage.

The date of the accident is the time to determine whether an insurance policy with no-fault coverage is valid and collectible. *Mid-Century Ins. Co. v. Anderson*, 303 Ark. 54, 791 S.W.2d 706 (1990).

23-89-205. Exclusion of benefits.

An insurer may exclude benefits to any insured, or to his or her personal representative, under a policy required by § 23-89-202, when the insured's conduct contributed to the injury he or she sustained in any of the following ways:

- (1) Causing injury to himself or herself intentionally; or
- (2) Causing injury while in the commission of a felony or while seeking to elude lawful apprehension or arrest by a law enforcement official.

History. Acts 1973, No. 138, § 4; A.S.A. 1947, § 66-4017.

CASE NOTES

Legislative Intent.

There is no indication that it was the intent of the General Assembly to require that the "no fault" coverage be provided whether the insured has other coverage

providing the same benefits, or not, and this section does not indicate such a legislative intent. *Aetna Ins. Co. v. Smith*, 263 Ark. 849, 568 S.W.2d 11 (1978).

23-89-206. Retention of tort liability.

Tort liability arising from the ownership, maintenance, or use of a motor vehicle within this state is retained.

History. Acts 1973, No. 138, § 5;
A.S.A. 1947, § 66-4018.

23-89-207. Insurer's right of reimbursement.

(a) Whenever a recipient of benefits under § 23-89-202(1) and (2) recovers in tort for injury, either by settlement or judgment, the insurer paying the benefits has a right of reimbursement and credit out of the tort recovery or settlement, less the cost of collection, as defined.

(b) All cost of collection thereof shall be assessed against insurer and insured in the proportion each benefits from the recovery.

(c) The insurer shall have a lien upon the recovery to the extent of its benefit payments.

History. Acts 1973, No. 138, § 6;
A.S.A. 1947, § 66-4019.

Cross References. Subrogation recovery, § 23-79-146.

RESEARCH REFERENCES

Ark. L. Notes. Brill, Equity and the Restitutionary Remedies: Constructive Trust, Equitable Lien, and Subrogation, 1992 Ark. L. Notes 1.

Copeland, A Brief Survey of Some Important 1991 and 1992 Insurance Law Decisions, 1992 Ark. L. Notes 85.

CASE NOTES**ANALYSIS**

Construction.
Applicability.
Accidental death benefits.
Amount of lien.
Attorney's fees.
Cost of collection.
Credit against liability.
Right of setoff.
Sharing in legal costs.
Suit against insurer.

Construction.

Section 16-22-308 covers the same subject as this section and aids in determining legislative intent for this section. Wenrick v. Crater, 315 Ark. 361, 868 S.W.2d 60 (1993).

Insurer was entitled to pursue its subrogation claim even though insured had not been made whole as a result of his recovery from tortfeasor's insurer since this section does not restrict insurer's subrogation rights only in the event insured

recovers medical benefits or lost wages. Dean v. Colonia Underwriters Ins. Co., 52 Ark. App. 91, 915 S.W.2d 728 (1996).

Applicability.

The right of reimbursement and credit is allowed pursuant to this section in a situation where there are payments from more than one source. Shelter Mut. Ins. Co. v. Tucker, 295 Ark. 260, 748 S.W.2d 136 (1988).

The equitable nature of subrogation is granted an insurer to prevent the insured from receiving a double recovery; thus, while the general rule is that an insurer is not entitled to subrogation unless the insured has been made whole for his loss, the insurer should not be precluded from employing its right of subrogation when the insured has been fully compensated and is in a position where the insured will recover twice for some of his or her damages. Shelter Mut. Ins. Co. v. Bough, 310 Ark. 21, 834 S.W.2d 637 (1992).

Accidental Death Benefits.

While an insurance company has the right to reduce or claim reimbursement for any medical hospital benefits or income disability benefits paid out, no such right is granted in regard to accidental death benefits. *O'Bar v. MFA Mut. Ins. Co.*, 275 Ark. 247, 628 S.W.2d 561 (1982).

A reduction clause in an automobile insurance policy which provided that any amount payable under the terms of the policy on account of the insured's death would be reduced by the amount paid in accidental death benefits under any disability benefits law was void because it violated public policy. *O'Bar v. MFA Mut. Ins. Co.*, 275 Ark. 247, 628 S.W.2d 561 (1982).

Amount of Lien.

An insurance company which makes a no-fault payment to its own insured is entitled to a lien upon, and a right of reimbursement from, any tort recovery obtained by its insured, less the insurance company's proportionate part of the costs of collection. *Northwestern Nat'l Ins. Co. v. American States Ins. Co.*, 266 Ark. 432, 585 S.W.2d 925 (1979).

Attorney's Fees.

Since the cost of collection includes attorney's fees under the provisions of this section, reasonable attorney's fees should be prorated between the parties according to the benefit each receives and not assessed solely against the insurer. *National Investors Fire & Cas. Ins. Co. v. Edwards*, 5 Ark. App. 42, 633 S.W.2d 41 (1982).

Where victim did not notify his insurer of his suit against tortfeasor so that insurer could intervene to protect its interest and then refused to reimburse insurer out of the settlement recovery and insurer was forced to bring a different action to enforce its claim, court was still required to follow subsection (b), although the end result might be unjust, in apportioning the costs of collection, including reasonable attorney's fees, between the victim and the insurer. *Daves v. Hartford Accident & Indem. Co.*, 302 Ark. 242, 788 S.W.2d 733 (1990).

The insurer of an automobile accident victim was not required to pay any portion of the attorney's fees its insured incurred in settling her property damage claim with tortfeasor's insurer. *Cockman v.*

State Farm Auto. Ins. Co., 313 Ark. 340, 854 S.W.2d 343 (1993).

Cost of Collection.

The words "cost of collection" in subsection (b) of this section mean expenses such as court costs, cost of service of process, cost of witness fees, cost of depositions, cost of attorney fees, and other similar expenses. *Wenrick v. Crater*, 315 Ark. 361, 868 S.W.2d 60 (1993).

Once an expense has been determined to be a cost of collection, the trial court has discretion to, and should, limit that expense to a reasonable amount. *Wenrick v. Crater*, 315 Ark. 361, 868 S.W.2d 60 (1993).

Credit Against Liability.

Insurer held entitled to a credit against liability out of the settlement recovery as provided by the subrogation provisions contained in the policy and by this section. *National Investors Fire & Cas. Ins. Co. v. Edwards*, 5 Ark. App. 42, 633 S.W.2d 41 (1982).

Right of Setoff.

An automobile insurance carrier cannot, by policy language, set off its medical payments made on behalf of its insured to a third party against its payment for the same insured to the injured party of the policy limit for bodily injury. *State Farm Mut. Auto. Ins. Co. v. Sims*, 288 Ark. 541, 708 S.W.2d 72 (1986).

Finding against the insured was improper where the trial court effectively gave the insurer a setoff for its medical payments which was erroneous because it could not set off one payment under its policy for another under the same policy. *Gause v. Shelter Gen. Ins. Co.*, 81 Ark. App. 133, 98 S.W.3d 854 (2003).

Sharing in Legal Costs.

Where the personal representative of the estate was authorized by the court to contract for legal services and pursue a wrongful death action against the tortfeasor, and the insurance company of the deceased benefited from the tort settlement to the full extent of its subrogation claim but did not assist in the procurement of the settlement, the trial court erred in not assessing against the amount of recovery payable to the insurance company its proportionate share of the cost incurred by the personal representative in

its pursuit of the tort settlement. *Baker v. State Farm Fire & Cas. Co.*, 34 Ark. App. 59, 805 S.W.2d 665 (1991).

Where the insured's attorney stipulated to the insurance company's right to subrogation before trial, and neither the insurance company nor its attorney attended the trial, the money collected was due to the insured's attorney's efforts and, as sole beneficiary of the recovery, the insurance company was responsible for the cost of collection. *State Farm Mut. Auto. Ins. Co. v. Bing*, 305 Ark. 280, 808 S.W.2d 304 (1991).

Suit Against Insurer.

While it may be the "normal" procedure

for a subrogated insurer to file a subrogation claim against the wrongdoer, there is no reason why an insurer cannot enforce its claim against the wrongdoer by an action against the wrongdoer's insurer. *Daves v. Hartford Accident & Indem. Co.*, 302 Ark. 242, 788 S.W.2d 733 (1990).

Cited: *Atkins v. Pilot Life Ins. Co.*, 4 Ark. App. 257, 630 S.W.2d 50 (1982); *Curtis v. Sears, Roebuck & Co.*, 754 F.2d 781 (8th Cir. 1985); *Carnathan v. Farm Bureau Ins. Co.*, 288 Ark. 399, 705 S.W.2d 885 (1986); *Edens v. Shelter Mut. Ins. Co.*, 923 F.2d 79 (8th Cir. 1991).

23-89-208. Payments.

(a) Payment under the coverages enumerated in § 23-89-202(1) and (2) shall be made on a monthly basis as benefits accrue.

(b) Benefits for any period are overdue if not paid within thirty (30) days after the insurer received reasonable proof of the amount of all benefits accruing during that period.

(c) If reasonable proof is not supplied as to all benefits accrued, the portion supported by reasonable proof is overdue if not paid within thirty (30) days after the proof is received by the insurer.

(d) Any part or all of the remainder of the benefits that is later supported by reasonable proof is overdue if not paid within thirty (30) days after the proof is received by the insurer.

(e) In the event the insurer fails to pay the benefits when due, the person entitled to the benefits may bring an action in contract to recover them.

(f) In the event the insurer is required by the action to pay the overdue benefits, the insurer shall, in addition to the benefits received, be required to pay the reasonable attorney's fees incurred by the other party, plus twelve percent (12%) penalty, plus interest thereon from the date these sums became overdue.

History. Acts 1973, No. 138, § 8; A.S.A. 1947, § 66-4021.

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1991 and 1992

Insurance Law Decisions, 1992 Ark. L. Notes 85.

CASE NOTES

ANALYSIS

Penalty and attorney's fees.
Reasonable proof.
Thirty days.

Penalty and Attorney's Fees.

Plaintiff held not entitled to attorney's fees or penalty against the insurer. *National Investors Fire & Cas. Ins. Co. v. Edwards*, 5 Ark. App. 42, 633 S.W.2d 41 (1982).

The trial judge did not err in awarding prejudgment interest on the medical payments claim; however, the trial judge erred in awarding prejudgment interest on the 12 percent penalty and attorney's fees because the penalty and attorney's fees did not become due until they were awarded by the court. *State Farm Mut. Auto. Ins. Co. v. Brown*, 48 Ark. App. 136, 892 S.W.2d 519 (1995).

Reasonable Proof.

Sending a hospital bill unaccompanied by any sort of signed application proving

that the medical expense entitles the sender to an insurance policy "benefit" is not sufficient to satisfy the "reasonable proof" requirement. *Roy v. Farmers & Merchants Ins. Co.*, 307 Ark. 213, 819 S.W.2d 2 (1991).

Thirty Days.

Where hospital sent a bill to the insurance company in February 1, the company's claim adjuster received an application for benefits from the insured's attorney on February 16, and the insured received benefits on March 14, the benefits were not overdue because they were paid within 30 days after the insurer received proof from the insured. *State Farm Mut. Auto. Ins. Co. v. Brown*, 48 Ark. App. 136, 892 S.W.2d 519 (1995).

Cited: *Carnathan v. Farm Bureau Ins. Co.*, 288 Ark. 399, 705 S.W.2d 885 (1986); *Woolsey v. Nationwide Ins. Co.*, 884 F.2d 381 (8th Cir. 1989).

23-89-209. Underinsured motorist coverage.

(a)(1) No private passenger automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicles in this state shall be delivered or issued in this state or issued as to any private passenger automobile principally garaged in this state unless the insured has the opportunity, which he or she may reject in writing, to purchase underinsured motorist coverage.

(2) After a named insured or applicant for insurance rejects underinsured motorist coverage, the insurer or any of its affiliates shall not be required to notify any insured in any renewal, reinstatement, substitute, amended, or replacement policy as to the availability of such coverage.

(3) The coverage shall enable the insured or the insured's legal representative to recover from the insurer the amount of damages for bodily injuries to or death of an insured which the insured is legally entitled to recover from the owner or operator of another motor vehicle whenever the liability insurance limits of the other owner or operator are less than the amount of the damages incurred by the insured.

(4) Underinsured motorist coverage shall be at least equal to the limits prescribed for bodily injury or death under § 27-19-605.

(5) Coverage of the insured pursuant to underinsured motorist coverage shall not be reduced by the tortfeasor's insurance coverage except to the extent that the injured party would receive compensation in excess of his or her damages.

(b)(1) Underinsured motorist coverage as described in this section shall not be available to insureds nor shall insurers be mandated to offer that coverage unless the insured has elected uninsured motorist coverage as provided by § 23-89-403.

(2) Underinsured motorist coverage shall not be issued without uninsured motorist coverage being issued in coordination therewith.

(c) If a tentative agreement to settle for the liability limits of the owner or operator of the other vehicle has been reached between the insured and the owner or operator, written notice may be given by the insured injured party to his or her underinsured motorist coverage insurer by certified mail, return receipt requested. The written notice shall include:

(1) Written documentation of pecuniary losses incurred, including copies of all medical bills;

(2) Written authorization or a court order authorizing the underinsured motorist insurer to obtain medical reports from all employers and medical providers; and

(3) Written confirmation from the tortfeasor's liability insurer as to the amount of the alleged tortfeasor's liability limits and the terms of the tentative settlement, which shall in no event include any component sum representing punitive or exemplary damages. However, in no event shall evidence of the referenced liability limits, the fact that a tentative settlement was reached, or the terms of the tentative settlement be admissible in any civil action with the sole exceptions of:

(A) Actions by underinsured motorist insurers to enforce subrogation rights as contemplated by this subchapter;

(B) Actions by first party liability insureds against their insurer to enforce their contract or a settlement hereunder, if any; and

(C) Actions by first party underinsured motorist insureds against their insurer to enforce their contract or a settlement hereunder.

(d)(1) Within thirty (30) days of receipt of the written notice, the underinsured motorist insurer may make payment to its insured of an amount equal to the tentative settlement amount agreed to by the owner or operator of the other motor vehicle or his or her liability insurer.

(2) In such event, the underinsured motorist insurer shall be entitled to subrogate to its insured's right of recovery against the owner or operator of the other motor vehicle to the extent of such payments and to the extent of any underinsured motorist insurance benefit it pays to its insured.

(3) If the underinsured motorist insurer fails to pay its insured the amount of the tentative tort settlement within thirty (30) days, the underinsured motorist insurer has no right to the proceeds of any settlement or judgment between its insured and the other owner or operator and/or the owner's or operator's liability insurer, no right to otherwise recoup the amount of the underinsured motorist benefit it may pay from the other owner or operator or his or her insurer, and no right to refuse payment of its underinsured motorist coverage benefit by reason of the settlement made by its insured.

(e) In the event that the tortfeasor's motor vehicle liability insurance carrier and the underinsured motorist coverage are provided by the same insurance company, the requirements of subsections (c) and (d) of this section are waived, and the underinsured party may proceed against his or her underinsured insurance carrier at any time after settlement of the underlying tortfeasor's liability policy claim.

History. Acts 1987, No. 335, §§ 1, 2; 1991, No. 209, § 1; 1991, No. 1123, § 22; 1993, No. 1180, § 1; 1997, No. 284, § 1.

A.C.R.C. Notes. Acts 1991, No. 209, amended this section and was effective February 21, 1991 to April 9, 1991.

Acts 1993, No. 1180, § 3, provided: "The notice to policyholders regarding the right to accept or reject the underinsured motorist coverage as required by Arkansas Code § 23-89-209 applies to new policies issued on and after July 1, 1993 and to policies existing on the effective date of this act but only from and after their first renewal on or after January 1, 1994."

Publisher's Notes. Acts 1993, No. 1180, § 2, provided: "The General Assembly finds that full implementation of underinsured motorist benefits has been hindered in this state by reason of the fact that the issuers of such coverage have often refused payment of the benefit when the insured injured party has, knowingly or unknowingly, given a complete release of the tortfeasor upon receipt of the tortfeasor's liability limits. While the General Assembly acknowledges and appreciates the underinsured motorist coverage insurers' right to subrogate against the tortfeasor for underinsured benefits it may pay to its own first party insured, the practical effect of such insurer's position (when combined with zealous protection of the tortfeasor by liability insurers) has been to delay, obstruct, and defeat the timely payment of underinsured motorist

benefits. The General Assembly believes it is in the public interest to require that if a tortfeasor and his liability insurer have made a tentative settlement for policy limits, the underinsured insurer must decide within thirty (30) days whether it:

"(i) believes subrogation or indemnity rights are worth pursuing, in which event it must pay its insured the other owner or driver's liability limits (in addition to the proper portion of their underinsured benefit); or

"(ii) believes that there is no point in pursuit of subrogation; after 30 days, it will be held to have waived same — which will allow the injured party to obtain the other owner or driver's liability limits as well as such portion of the underinsured benefit as to which he is entitled.

"The General Assembly also finds that since the enactment of Act 1987, No. 335, §§ 1.2 calling for the mandated offer of underinsured motorist coverage there has been confusion amongst insurers and the general public as to whether underinsured motorist coverage must be offered separately from the uninsured motorist coverages. Since the issuance of underinsured motorist coverage in the absence of uninsured motorist coverage creates 'gaps' in insurance coverage and is inherently misleading, the General Assembly herewith declares its intent that the two coverages always be offered (and accepted or rejected) in a coordinated package."

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1990 Insurance Law Decisions, 1991 Ark. L. Notes 75.

Copeland, A Brief Survey of Some Important 1991 and 1992 Insurance Law Decisions, 1992 Ark. L. Notes 85.

Ark. L. Rev. Note. Shelter Mutual Insurance Co. v. Irvin — The Arkansas Supreme Court's Retroactive Application of

the Amended Underinsured Motorist Act, 46 Ark. L. Rev. 737.

Recent Developments, 49 Ark. L. Rev. 207.

UALR L.J. Fifteenth Annual Survey of Arkansas Law, 15 UALR L.J. 427.

Legislative Survey, Insurance, 16 UALR L.J. 141.

Chamberlin & Holt, Why Arkansas

Should Overturn its Anti-Stacking Precedent: A Look at Aggregating Uninsured and Underinsured Motorist Coverage, 21 UALR L.J. 413.

Annual Survey of Caselaw, Insurance Law, 25 UALR L.J. 1010.

CASE NOTES

ANALYSIS

In general.
Construction.
Applicability.
Attorney's fees.
Compliance.
Consent clauses.
Coverage.
Duty of insurer.
Exclusion.
Implied coverage.
Legislative intent.
Limits of recovery.
Rejection of coverage.
Stacking.
Time limitations.

In General.

Underinsured motorist coverage provides benefits when the policyholder, involved in an accident with another vehicle, is legally entitled to recover damages that exceed the offending motorist's insurance coverage. *Edens v. Shelter Mut. Ins. Co.*, 923 F.2d 79 (8th Cir. 1991).

This section sets forth the general purpose of the coverage, not the amount. *Ross v. United Servs. Auto. Ass'n*, 320 Ark. 604, 899 S.W.2d 53 (1995).

The legislative intent is clear that the inability to obtain the limits of liability coverage is what triggers the availability of underinsured motorist (UIM) coverage. *Shelter Mut. Ins. Co. v. Williams*, 69 Ark. App. 35, 9 S.W.3d 545 (2000).

The statute does not require insurers issuing commercial automobile liability policies to offer underinsured-motorist coverage. *Monday v. Canal Ins. Co.*, 348 Ark. 435, 73 S.W.3d 594 (2002).

Construction.

The presence of the emergency clause in Section 5 of the 1991 amendment persuaded the court to apply the amendment retroactively. *Henderson v. Universal Underwriters Ins. Co.*, 768 F. Supp. 688 (E.D. Ark. 1991).

The 1991 amendment to § 23-89-209 makes it clear that the legislature in-

tended the 1987 Act, when passed, to provide that an insured's recovery of underinsured motorist coverage should not be reduced or set-off by the amount received from the tortfeasor. *Henderson v. Universal Underwriters Ins. Co.*, 768 F. Supp. 688 (E.D. Ark. 1991).

The specific expression in 1991 Ark. Act 1123 that the written rejection requirement be effective on "February 21, 1991, or the first renewal after February 21, 1991" indicates the legislature intent that the initial requirement of offering the underinsured motorist coverage be effective on July 20, 1987, or the first renewal after July 20, 1987. *Nixon v. H & C Elec. Co.*, 307 Ark. 154, 818 S.W.2d 251 (1991).

Subsection (a) was amended a second time by Section 22 of Act 1123 of 1991, but the amendments made by Act 209 of 1991 were not affected. *American Cas. Co. v. Mason*, 312 Ark. 166, 848 S.W.2d 392 (1993).

The 1991 amendments made it clear that, prior to 1991, the legislature did not intend an insurer to have a duty to offer the underinsured motorist coverage after the insured rejected coverage in writing. *Warford v. State Farm Mut. Auto. Ins. Co.*, 69 F.3d 860 (8th Cir. 1995).

Trial court erred in refusing to direct a verdict in insurance company's favor because its underinsured motorist coverage excluded the definition of an uninsured motor vehicle from an underinsured vehicle and erred in particular on the plain meaning of this section, which clearly refers to "the tortfeasor's insurance coverage." *State Farm Mut. Auto. Ins. Co. v. Beavers*, 321 Ark. 292, 901 S.W.2d 13 (1995).

The exclusive remedy provision of § 11-9-105 does not bar an employee from being legally entitled to recover under the underinsured motorist statute against a co-employee who was the owner or operator of the vehicle in which the employee was riding at the time of the injury. *Southern Farm Bureau Cas. Ins. Co. v. Pettie*, 54 Ark. App. 79, 924 S.W.2d 828 (1996).

The statute does not void an insurance company's common law subrogation rights. *Hartford Ins. Co. v. Mullinax*, 336 Ark. 335, 984 S.W.2d 812 (1999).

There is a distinction between uninsured (UM) and underinsured (UIM) coverage. UM coverage applies when a tortfeasor either has no insurance or has less than the amount required by law, and UM coverage is designed to guarantee a minimum recovery equal to that amount. UIM coverage applies when the tortfeasor has at least the amount of insurance required by law but not enough to fully compensate the victim. *Shelter Mut. Ins. Co. v. Williams*, 69 Ark. App. 35, 9 S.W.3d 545 (2000).

Applicability.

Under Arkansas choice of law rules, a Kansas statute mandating anti-stacking provisions, and not this section, applied to an insurance policy where, at the time the policy of insurance was issued and at the time of the accident, the policy holders resided in Kansas and where the policy of insurance was issued to cover an automobile to be garaged in Kansas and presumably to be driven there even though the accident occurred in Arkansas. *Lienemann v. King*, 832 F. Supp. 257 (W.D. Ark. 1993), *aff'd*, 26 F.3d 126 (8th Cir. 1994).

It is practical and pure common sense that underinsurance should not pertain until it is determined whether the insured is in fact underinsured. *State Farm Mut. Auto. Ins. Co. v. Thomas*, 316 Ark. 345, 871 S.W.2d 571 (1994).

Underinsured coverage does not apply when the insured is struck by an uninsured motorist. *State Farm Mut. Auto. Ins. Co. v. Beavers*, 321 Ark. 292, 901 S.W.2d 13 (1995).

To allow uninsured and underinsured coverage to apply to the same accident would permit a double recovery in the face of clear statutory and policy language to the contrary. *State Farm Mut. Auto. Ins. Co. v. Lindsey*, 54 Ark. App. 390, 926 S.W.2d 850 (1996).

The amount of damages incurred by the insured for bodily injury and the amount of the liability insurance benefits that the insured has recovered from the tortfeasor must be known before payment by the underinsurance carrier is required. *Hartford Ins. Co. v. Mullinax*, 336 Ark. 335, 984 S.W.2d 812 (1999).

Attorney's Fees.

This section allows the recovery of attorney's fees where an insurer fails to pay benefits when they become due, but it adds nothing as to the amount of the fees to be allowed. *State Farm Mut. Auto. Ins. Co. v. Brown*, 48 Ark. App. 136, 892 S.W.2d 519 (1995).

Compliance.

Insurance company complied with this section where it gave the named insured the opportunity to purchase underinsured motorist coverage by conspicuously including an option for such coverage on the face of the standard policy application. *Edens v. Shelter Mut. Ins. Co.*, 923 F.2d 79 (8th Cir. 1991).

Where there was no provision for underinsured motorist coverage in policy and insurer gave no oral notice that such coverage was available and never sent any written materials describing or offering the coverage, mandate of this section that insurers offer underinsured coverage was not met by mere printing of the term "underinsured motorist" on an application without explanation or mention of it to the insured. *Shelter Mut. Ins. Co. v. Bough*, 310 Ark. 21, 834 S.W.2d 637 (1992); *Shelter Mut. Ins. Co. v. Irvin*, 309 Ark. 331, 831 S.W.2d 135 (1992).

To sustain an action against insurer, the insured must prove that insurer failed to fulfill its duty under this section to make underinsured motorist coverage available to him at the time he took out his policy; it is the act of failing to inform an insured about the availability of underinsured motorist coverage that triggers the trial court's implying such coverage by operation of law. *Calcagno v. Shelter Mut. Ins. Co.*, 330 Ark. 802, 957 S.W.2d 700 (1997).

Consent Clauses.

In cases involving a consent clause, the insured cannot hold the insurer liable, without its consent, upon a judgment obtained in an action in which the insurer was not a party, and whether underinsured motorist coverage or uninsured motorist coverage is included does not make a difference. *Ross v. State Farm Mut. Auto. Ins. Co.*, 41 Ark. App. 75, 848 S.W.2d 948 (1993).

Coverage.

This section does not broadly specify any class of persons for coverage other

than "the insured" and, therefore, does not require that a policy provide coverage to an occupant in a vehicle owned by another person while that vehicle is being driven by the insured. *Foster v. Farm Bureau Mut. Ins. Co.*, 71 Ark. App. 132, 27 S.W.3d 464 (2000).

Duty of Insurer.

This section contemplates payment by the tortfeasor's insurance company, and also contemplates a determination of the injured party's damages; there is no directive under this section that the underinsured carrier must investigate and evaluate a claim prior to the payment of liability coverage by the tortfeasor's insurance company. *State Farm Mut. Auto. Ins. Co. v. Thomas*, 316 Ark. 345, 871 S.W.2d 571 (1994).

After insured's initial rejection of underinsured coverage, insurer was not required to re-notify insured of the availability of underinsured coverage when the insured amended his policy by adding vehicles to the policy. *Colonia Underwriters Ins. Co. v. Richardson*, 325 Ark. 300, 924 S.W.2d 808 (1996).

Where the plaintiff's parents entered into a contract for automobile insurance and rejected underinsured motorist coverage, the insurance company was not required to offer underinsured motorist coverage to the plaintiff when she was later added to the policy as an additional operator. *Majors v. American Premier Ins. Co.*, 334 Ark. 628, 977 S.W.2d 897 (1998).

Exclusion.

The exclusion for underinsured motor vehicle coverage which provided no coverage for bodily injury to an insured occupying a vehicle not insured under that policy was reasonable because it excluded a material, unassumed risk for which the insurance company could be expected to charge a higher premium, and it would be unfair to ask other insureds to share the cost of increased exposure. *Clampit v. State Farm Mut. Auto. Ins. Co.*, 309 Ark. 107, 828 S.W.2d 593 (1992).

The fact that the legislature chose to specifically require the offering of underinsured-motorist coverage only in conjunction with the issuance of "private passenger automobile liability insurance" policies demonstrates its desire to exclude commercial policies from the require-

ments of this section. *Monday v. Canal Ins. Co.*, 348 Ark. 435, 73 S.W.3d 594 (2002).

Implied Coverage.

Where the insurer failed to make underinsured coverage available, such coverage was implied by operation of law. *Shelter Mut. Ins. Co. v. Irvin*, 309 Ark. 331, 831 S.W.2d 135 (1992).

If an insurer fails to comply with this section, a court may imply underinsured motorist coverage by operation of law. *Warford v. State Farm Mut. Auto. Ins. Co.*, 69 F.3d 860 (8th Cir. 1995).

Legislative Intent.

The General Assembly intended, under this section, for an insured to receive the limits of underinsured motorist coverage over and above any recovery from the tortfeasor's carrier if that recovery was not adequate to fully compensate the insured. *Shepherd v. State Auto Property & Cas. Ins. Co.*, 312 Ark. 502, 850 S.W.2d 324 (1993).

The legislature intended underinsured motorist benefits to be provided without regard to the amount of insurance carried by any liable party. *Shepherd v. State Auto Property & Cas. Ins. Co.*, 312 Ark. 502, 850 S.W.2d 324 (1993).

Limits of Recovery.

The injured policyholder should only receive the limits of his underinsured coverage if his total damages equal or exceed that limit plus the amount received from the tortfeasor. *Henderson v. Universal Underwriters Ins. Co.*, 768 F. Supp. 688 (E.D. Ark. 1991).

Under the "difference of limits" or "excess" method of computation of benefits, an insured is not entitled to underinsured motorist benefits when the responsible party's liability insurance limit equals or exceeds the amount of the insured's underinsured coverage; under the "add-on" method of computation of benefits, an insured can receive the limits of his underinsured motorist coverage over and above any recovery from the responsible party if that recovery is not adequate to fully compensate the insured. *American Cas. Co. v. Mason*, 312 Ark. 166, 848 S.W.2d 392 (1993).

An insured is entitled to recover underinsured motorist coverage benefits for damages sustained which exceed the cov-

erage of the tortfeasor irregardless the amount of the tortfeasor's liability insurance. *American Cas. Co. v. Mason*, 312 Ark. 166, 848 S.W.2d 392 (1993).

The legislature intended underinsured motorist benefits to be provided without regard to the amount of insurance carried by any liable party. *American Cas. Co. v. Mason*, 312 Ark. 166, 848 S.W.2d 392 (1993).

Under subsection (a) of this section, both before and after the 1993 amendment, the legislative intent is clear that the inability to obtain the limits of liability coverage is what triggers the availability of underinsured benefits. *Birchfield v. Nationwide Ins.*, 317 Ark. 38, 875 S.W.2d 502 (1994).

This section and § 27-19-605 clearly mandate that a minimum of \$25,000 underinsured coverage be offered and not an amount equal to the liability insurance purchased by the insured; therefore, when underinsurance is implied by law under this section, the insured will be limited to the minimum amount referred to in the statute. *Ross v. United Servs. Auto. Ass'n*, 320 Ark. 604, 899 S.W.2d 53 (1995).

Underinsured coverage applies when the tortfeasor has at least the minimum amount of insurance required by law but not enough to fully compensate the victim, and is designed to provide compensation to the extent of the injury, subject to the policy limits. *Southern Farm Bureau Cas. Ins. Co. v. Pettie*, 54 Ark. App. 79, 924 S.W.2d 828 (1996).

Rejection of Coverage.

The rejection of underinsured motorist coverage obtained from the plaintiff in 1987 was effective and a second or subsequent rejection was not required by the 1991 amendments nor was one required when a vehicle was substituted for the original vehicle. *Warford v. State Farm Mut. Auto. Ins. Co.*, 871 F. Supp. 1085 (W.D. Ark. 1994), *aff'd*, 69 F.3d 860 (8th Cir. 1995).

An attempt to deny coverage before the insured has been fully compensated would not be permitted by the statute. *Shelter Mut. Ins. Co. v. Williams*, 69 Ark. App. 35, 9 S.W.3d 545 (2000).

Where insured was injured when a car

crashed into the wall of her business, the trial court properly granted summary judgment for the insurance company which denied the insured underinsured motorist coverage and personal injury protection coverage based upon the clear and unambiguous terms of the policy's business premises exclusion; moreover, waiver was not available to extend the coverage merely because the insurer's agent thought coverage might be available. *Harasyn v. St. Paul Guardian Ins. Co.*, 349 Ark. 9, 75 S.W.3d 696 (2002).

Stacking.

Because this section requires the insurance company to offer as a minimum underinsured coverage for each car, when an insured has more than one car covered with the insurance company, the insured may stack the minimum coverages that should have been offered. *Ross v. United Servs. Auto. Ass'n*, 320 Ark. 604, 899 S.W.2d 53 (1995).

Although stacking of UIM coverages is not prohibited by statute, it may be precluded by an applicable anti-stacking clause in the policy. *Shelter Mut. Ins. Co. v. Williams*, 69 Ark. App. 35, 9 S.W.3d 545 (2000).

Stacking was denied to passenger where his policy plainly provided that it would apply "only as excess insurance over any other similar insurance available to the insured as primary insurance" and the vehicle owner's insurance was considered primary. *Shelter Mut. Ins. Co. v. Williams*, 69 Ark. App. 35, 9 S.W.3d 545 (2000).

Time Limitations.

A policyholder may recover against the insurer even though the statute of limitations has run in favor of the uninsured motorist and even though the plaintiff has dismissed his suit against the uninsured motorist with prejudice. *Southern Farm Bureau Cas. Ins. Co. v. Pettie*, 54 Ark. App. 79, 924 S.W.2d 828 (1996).

The statute of limitations for an insurance agent's negligence commences at the time the negligent act occurs. *Calcagno v. Shelter Mut. Ins. Co.*, 55 Ark. App. 321, 934 S.W.2d 548 (1996), *aff'd*, 330 Ark. 802, 957 S.W.2d 700 (1997).

23-89-210. Premium reduction for college graduates.

(a) Any schedule of rates or rating plan for automobile liability and physical damage insurance submitted to or filed with the Insurance Commissioner shall provide for an appropriate reduction in premium charges for those insured under twenty-five (25) years of age who have graduated from a college or university, and whose cumulative scholastic records show that the insured attained one (1) of the following:

- (1) If letter grades are used, had a grade average of "B" or higher; or
- (2) Had at least a 3-point average on a 4-point scale (or equivalent).

(b) All insurance companies writing automobile liability and physical damage insurance in Arkansas shall allow an appropriate reduction in premium charges to all eligible persons subject to this section.

(c) This reduction in premium charges shall not apply to those insureds who qualify for a premium reduction due to marriage.

History. Acts 1997, No. 1184, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 23-89-201 — 23-89-209,

23-89-212, and 23-89-214 may not apply to this section which was enacted subsequently.

23-89-211. Total loss settlements.

(a) If an insurer settles a claim for damages to an automobile as a total loss to its own insured or a person having a claim against its insured, the insurer shall include with the payment for the loss:

(1) All applicable taxes, including sales taxes and fees as required under Rule and Regulation 43 of the State Insurance Department; and

(2) An itemized list stating the amount of the claim attributable to the value of the automobile and attributable to the sales tax on an automobile of that value.

(b) When settling a claim against an insured for damages to an automobile as a total loss, the insurer will take into consideration all applicable taxes, license fees, and other fees.

(c) The failure of an insurer to comply with the requirements of subsections (a) and (b) of this section shall be considered an unfair claims settlement practice under § 23-66-206(13).

History. Acts 1999, No. 1291, § 1; 2001, No. 1553, § 52; 2003, No. 458, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 23-89-201 — 23-89-209, 23-89-212, and 23-89-214 may not apply to this section which was enacted subsequently.

Amendments. The 2001 amendment added (b) and made related changes.

The 2003 amendment substituted "Total loss settlements" for "Amount of claim attributable to value and amount attributable to sales tax" in the section catch-

line; in (a), inserted "to its own insured or a person having a claim against its insured" and substituted "for the loss" for "an itemized list stating the amount attributable to the value of the automobile and the amount attributable to the sales tax on an automobile of that value"; inserted (a)(1) and (a)(2); and substituted "When settling ... other fees" for "For the purposes of this section, the term 'automobile' means a private passenger motor vehicle only" in (b); and added (c).

23-89-212. Motor vehicle liability insurance — Extraterritorial provision.

(a)(1) Motor vehicle liability insurance applies to the amounts which the owner is legally obligated to pay as damages because of accidental bodily injury and accidental property damage arising out of the ownership or operation of a motor vehicle if the accident occurs in the United States, its possessions, or Canada.

(2) Motor vehicle liability insurance must afford limits of liability not less than those required under the financial responsibility laws of this state.

(b) If the accident occurs outside this state but in the United States, its possessions, or Canada and if the limits of liability of the financial responsibility or compulsory insurance laws of the applicable jurisdiction exceed the limits of liability of the financial responsibility laws of this state, the motor vehicle liability insurance is deemed to comply with the limits of liability of the laws of the applicable jurisdiction.

(c) For purposes of this section, "motor vehicle" is defined as provided in § 27-14-207.

History. Acts 2001, No. 309, § 2.

RESEARCH REFERENCES

ALR. Conflict of laws in determination of coverage under automobile liability insurance policy. 110 ALR 5th 465.

23-89-213. Premium delinquencies.

(a) All insurance companies authorized to do business in this state and issuing automobile liability insurance policies in this state shall furnish to the insured a proof-of-insurance card.

(b) This proof-of-insurance card or any temporary proof of insurance issued by the insurance company shall contain the following information:

(1) The name, address, telephone number, and National Association of Insurance Commissioners' code number of the insurer;

(2) The name and telephone number of the local agent through whom the policy was issued, if any, or a blank space where a local agent's name may be stamped or filled in;

(3) The policy number;

(4) The effective date of the insurance policy coverage and the expiration date of the insurance policy coverage;

(5) The vehicle identification number and a brief description of the insured vehicle; and

(6) The name and address of the insured person.

(c) At the discretion of the Insurance Commissioner, any person or insurance company that violates this section may be subject to the following penalties:

(1) Suspension or revocation of the person's or insurer's certificate of authority to transact insurance in this state under § 23-63-213; or

(2) A monetary penalty in lieu of revocation or suspension as provided under § 23-63-213.

History. Acts 2001, No. 1828, § 1; 2003, No. 998, § 1.

A.C.R.C. Notes. References to "this subchapter" in §§ 23-89-201 — 23-89-209, 23-89-212, and 23-89-214 may not apply to this section which was enacted subsequently.

Amendments. The 2003 amendment

added the present subsection (a) and (b) designations; in (a), substituted "proof-of-insurance card" for "proof of insurance card which shall contain the following information"; added the introductory language in (b); in (b)(1), inserted "and National Association of Insurance Commissioners' code number"; and added (c).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-89-214. Motor vehicle liability insurance — Prohibition regarding step-downs.

No motor vehicle liability insurance policy issued or delivered in this state shall contain a provision that converts the limits for bodily injury or property damage to lower limits in the event that the insured motor vehicle is involved in an accident while it is being driven by a driver other than the insured.

History. Acts 2001, No. 1438, § 2.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

SUBCHAPTER 3 — AUTOMOBILE LIABILITY INSURANCE — CANCELLATION AND NONRENEWAL

SECTION.

- 23-89-301. Definitions.
- 23-89-302. Consideration of railroad accident prohibited.
- 23-89-303. Grounds for cancellation.
- 23-89-304. Time for notice of cancellation.
- 23-89-305. Notice required prior to re-

SECTION.

- newal or nonrenewal.
- 23-89-306. Proof of mailing of notices.
- 23-89-307. Eligibility for automobile liability assigned risk plan.
- 23-89-308. Nonliability of commissioner and insurer.

Effective Dates. Acts 1969, No. 333, § 8; Mar. 27, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present laws relative to the cancellation and ter-

mination of automobile liability, physical damage and collision insurance are inadequate to establish and protect the respective rights of the insurer and the policyholder and that this Act is immediately

necessary to correct this inadequacy. Therefore an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1973, No. 66, § 12: Feb. 6, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this state concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public and that the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist, this Act being necessary for the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 675, § 4: Mar. 20, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law on the time for notice of cancellation of automobile liability, physical damage and collision insurance may permit the inequitable recovery of insurance monies by parties who have received proper notice of cancellation and failed to act on such notice in a timely manner; that the present law has a detrimental impact on rates charged for this insurance and that this Act is immediately necessary to eliminate the deficiencies found in the present law. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

23-89-301. Definitions.

As used in this subchapter:

(1) "Automobile collision coverage" includes all coverage of loss or damage to an automobile insured under the policy resulting from collision or upset;

(2) "Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments, and uninsured motorists coverage;

(3) "Automobile physical damage coverage" includes all coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset;

(4) "Nonpayment of premium" means failure of the named insured to discharge when due any of his or her obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

(5) "Policy" means an automobile liability, automobile physical damage, or automobile collision policy, or any combination thereof, delivered or issued for delivery in this state insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

(A) A motor vehicle of the private passenger or station wagon-type that is not used as a public or livery conveyance for passengers, nor rented to others; or

(B) Any other four-wheel motor vehicle with a load capacity of one thousand five hundred pounds (1,500 lbs.) or less which is not used in

the occupation, profession, or business of the insured. However, this subchapter shall not apply to any policy:

- (i) Issued under an automobile assigned risk plan;
 - (ii) Insuring more than four (4) automobiles; or
 - (iii) Covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards; and
- (6)(A) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term.

(B) However, for the purposes of this subchapter:

- (i) Any policy with a policy period or term of less than six (6) months shall be considered as if written for a policy period or term of six (6) months; and
- (ii) Any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one (1) year, and the policy may be terminated at the expiration of any annual period upon giving twenty (20) days' notice of cancellation prior to the anniversary date. This cancellation shall not be subject to any other provisions of this subchapter.

History. Acts 1969, No. 333, § 1;
A.S.A. 1947, § 66-4007.

RESEARCH REFERENCES

UALR L.J. Bassett, Survey of Arkansas Law: Insurance, 2 UALR L.J. 247.

CASE NOTES

Renewal.

Because the insured's insurance policy was for a term of less than one year, the insurer was not required to cancel it in order for it to terminate, and the trial court correctly found that it expired by its

own terms when the insured failed to renew it. *Stanley Wood Chevrolet-Pontiac, Inc. v. Progressive Cas. Ins. Co.*, 79 Ark. App. 37, 83 S.W.3d 445 (2002).

Cited: *Farmers Ins. Co. v. Hall*, 263 Ark. 734, 567 S.W.2d 296 (1978).

23-89-302. Consideration of railroad accident prohibited.

No automobile insurer shall use a railroad accident occurring while the insured engineer, conductor, fireman, or brakeman was performing his or her duties as an engineer, conductor, fireman, or brakeman of a railroad in determining the rates or cancelling the automobile liability coverage, the automobile collision coverage, or the automobile physical damage coverage of the insured engineer, conductor, fireman, or brakeman, as those types of coverage are defined in § 23-89-301, where the insurance covers and protects the insured and any motor vehicle registered or principally garaged in this state.

History. Acts 1979, No. 393, § 2;
A.S.A. 1947, § 66-4008.1.

23-89-303. Grounds for cancellation.

(a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

(1) Nonpayment of premium;

(2) The named insured or any driver of the insured vehicle shall be convicted of:

(A) Driving while intoxicated;

(B) Homicide or assault arising out of the use of a motor vehicle; or

(C) Three (3) separate convictions of speeding or reckless driving, or any combination of the two during the policy period, including three (3) months prior to the effective date of the policy;

(3) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under this policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(4) Fraud or misrepresentation of a material fact, the knowledge of which would have caused the insurer to decline to issue a policy; or

(5) Nonpayment of membership dues when they are a requirement in the bylaws, agreements, or other legal instruments of a company before issuance and maintenance of a policy under this subchapter.

(b) This section shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

(c) This section shall not apply to nonrenewal.

(d)(1) However, an insurer shall not be able to rescind bodily injury or property damage liability coverage under an insurance policy for fraud or misrepresentation with respect to any injury to a third party when suffered as a result of the insured's negligent operation of a motor vehicle.

(2) Nothing in this subsection is intended to negate an insurer's right to rescind other coverages in the insurance policy purchased by the insured.

History. Acts 1969, No. 333, § 2; A.S.A. 1947, § 66-4008; Acts 1993, No. 457, § 1; 2001, No. 1555, § 16.

Amendments. The 2001 amendment inserted "(2)" in (a)(2)(C); and deleted (c)

and redesignated the remaining subsections accordingly.

Cross References. Effect of administrative revocation on motor vehicle insurance, § 27-22-106.

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1991 and 1992

Insurance Law Decisions, 1992 Ark. L. Notes 85.

CASE NOTES

ANALYSIS

Common law right of rescission.

Fraud.

Late payment.

Nonpayment.

Severance of provisions.

Common Law Right of Rescission.

Arkansas compulsory insurance statutes have not abrogated the insurer's common law right to rescission when: (1) only the insurer and the insured are involved in a noncompulsory provision of the policy, and (2) the policy has been in existence less than 60 days, unless it is a renewal policy. *Ferrell v. Columbia Mut. Ins. Cas. Co.*, 306 Ark. 533, 816 S.W.2d 593 (1991).

Fraud.

While an insurance company has the right to rescind coverages based on fraud by the insured without consent of the insured or a declaratory judgment, this right is unavailable when third-party claims are at issue. *Douglass v. Nationwide Mut. Ins. Co.*, 323 Ark. 105, 913 S.W.2d 277 (1996).

The court declined to apply the 60-day period specified in this section and § 23-89-304 as a limitations period for rescission based on fraud. *Douglass v. Nation-*

wide Mut. Ins. Co., 323 Ark. 105, 913 S.W.2d 277 (1996).

Late Payment.

Premium payment made two months after cancellation renewed, rather than reinstated, the policy. *Mid-Century Ins. Co. v. Miller*, 55 Ark. App. 303, 935 S.W.2d 302 (1996).

Nonpayment.

Where the sole reason for the cancellation was nonpayment of premium, the chancellor's finding that a sufficient premium was in fact paid invalidated the stated ground for the cancellation and thereby rendered moot the issue of whether the cancellation was also statutorily prohibited because it occurred within six months of the policy's issuance. *Equity Fire & Cas. Co. v. Needham*, 323 Ark. 22, 912 S.W.2d 926 (1996).

Severance of Provisions.

Courts may sever compulsory provisions of an insurance policy from noncompulsory provisions and permit rescission only as to noncompulsory provisions. *Ferrell v. Columbia Mut. Ins. Cas. Co.*, 306 Ark. 533, 816 S.W.2d 593 (1991).

Cited: *Farmers Ins. Co. v. Hall*, 263 Ark. 734, 567 S.W.2d 296 (1978).

23-89-304. Time for notice of cancellation.

(a)(1) No notice of cancellation of a policy to which § 23-89-303 applies and no notice of cancellation of a policy which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered shall be effective unless mailed or delivered by the insurer to the named insured.

(2) No notice of cancellation to any named insured shall be effective unless mailed or delivered at least twenty (20) days prior to the effective date of cancellation, provided that, when cancellation is for nonpayment of premium, at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given.

(b)(1) No notice of cancellation to any bank or other lending institution shown on the policy and having a lien on the insured's automobile shall be effective unless mailed or delivered by the insurer to the bank or other lending institution.

(2) No notice of cancellation to any bank or other lending institution shall be effective unless mailed or delivered at least twenty (20) days prior to the termination of the insurance protecting the interest of the bank or lending institution, provided that, when cancellation is for

nonpayment of premium, at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given.

(c) Failure to properly notify a named insured or failure to properly notify a bank or other lending institution shall have no effect on a party properly notified.

(d) This section shall not apply to nonrenewals.

History. Acts 1969, No. 333, § 3; 1973, No. 66, § 10; 1975, No. 528, § 1; A.S.A. 1947, § 66-4009; Acts 1989, No. 675, § 1.

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1991 and 1992 Insurance Law Decisions, 1992 Ark. L. Notes 85.

Ark. L. Rev. Note, State Farm Fire and Casualty Company v. Stockton, 295 Ark. 560, 750 S.W.2d 945 (1988), 42 Ark. L. Rev. 1124.

CASE NOTES

ANALYSIS

In general.
Construction.
Common law right of rescission.
Fraud.
Insured's address.
Severance of provisions.
Ten-day limit.

In General.

By the plain language of this section, an insurance company must give notice of cancellation to both the insured and to any bank or other lending institution having a lien on the named insured's automobile for cancellation to be effective. State Farm Fire & Cas. Co. v. Stockton, 295 Ark. 560, 750 S.W.2d 945 (1988).

Construction.

Strict compliance with this section is mandated, not substantial compliance, and the error in setting a premature cancellation date flies in the face of that basic requirement. Grubbs v. Credit Gen. Ins. Co., 327 Ark. 479, 939 S.W.2d 290 (1997).

Common Law Right of Rescission.

Arkansas compulsory insurance statutes have not abrogated the insurer's common law right to rescission when: (1) only the insurer and the insured are involved in a noncompulsory provision of the policy, and (2) the policy has been in existence less than 60 days, unless it is a renewal policy. Ferrell v. Columbia Mut. Ins. Cas. Co., 306 Ark. 533, 816 S.W.2d 593 (1991).

Fraud.

The court declined to apply the 60-day period specified in § 23-89-303 and this section as a limitations period for rescission based on fraud. Douglass v. Nationwide Mut. Ins. Co., 323 Ark. 105, 913 S.W.2d 277 (1996).

Insured's Address.

Whether the insurer had knowledge or should have known that the insured's address on the application was incorrect is a material question of fact for the jury's determination which should have been answered before the trial court determined whether sufficient notice of cancellation was given. Wozniak v. Colonial Ins. Co., 46 Ark. App. 331, 885 S.W.2d 902 (1994).

Severance of Provisions.

Courts may sever compulsory provisions of an insurance policy from noncompulsory provisions and permit rescission only as to noncompulsory provisions. Ferrell v. Columbia Mut. Ins. Cas. Co., 306 Ark. 533, 816 S.W.2d 593 (1991).

Ten-day Limit.

Billing notice for insured's quarterly installment payment, sent twenty-seven days before the quarterly payment was due, failed to satisfy the ten-day cancellation notice requirement of subdivision (a)(2). Parker v. Southern Farm Bureau Cas. Ins. Co., 326 Ark. 1073, 935 S.W.2d 556 (1996).

Cancellation of an insurance policy was ineffective because it provided the insured with only eight days' notice. *Grubbs v.*

Credit Gen. Ins. Co., 327 Ark. 479, 939 S.W.2d 290 (1997).

23-89-305. Notice required prior to renewal or nonrenewal.

(a)(1) The insurer shall give either a written notice of nonrenewal or an offer of renewal at least thirty (30) days prior to the expiration of the policy's existing term.

(2) The insurer shall send the insured a written notice and the insurance producer written or electronic notice of the offer of renewal under subdivision (a)(1) of this section indicating the new premium and providing a description of any change in deductible or policy provisions in the renewal policy.

(b)(1) This section shall not apply in case of nonpayment of premium.

(2) However, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) Unless a statement of the grounds for nonrenewal accompanies or is included in the notice of nonrenewal, the notice of nonrenewal shall state or be accompanied by a statement that, upon written request of the named insured mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of the nonrenewal, the insurer shall specify the grounds for the nonrenewal.

(d) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation that existed before the effective date of the renewal.

History. Acts 1969, No. 333, § 4; 1971, No. 187, § 1; A.S.A. 1947, § 66-4010; Acts 2003, No. 1790, § 3.

Amendments. The 2003 amendment substituted "required prior to renewal" for "of" in the section catchline; rewrote (a);

and deleted (b)(1)(A) and made related changes.

Cross References. Effect of administrative revocation on motor vehicle insurance, § 27-22-106.

CASE NOTES

Constitutionality.

Because the point on appeal was not developed legally or factually, this was enough to affirm the trial court in its holding that subsection (a) of this section and § 23-89-306 were constitutional as applied to the facts; the court refused to

consider the issue because the insured failed to cite to any legal authority as required. *Johnson v. Encompass Ins. Co.*, — Ark. —, — S.W.3d —, 2003 Ark. LEXIS 620 (Nov. 20, 2003).

Cited: *Farmers Ins. Co. v. Hall*, 263 Ark. 734, 567 S.W.2d 296 (1978).

23-89-306. Proof of mailing of notices.

Proof of mailing of notice of cancellation, or of intention not to renew, or of grounds for cancellation to the named insured at the address shown in the policy shall be sufficient proof of notice.

History. Acts 1969, No. 333, § 5;
A.S.A. 1947, § 66-4011.

CASE NOTES

ANALYSIS

Constitutionality.
Illustrative cases.
Incorrect address.

Constitutionality.

This section provides a measure of protection to the insured by requiring notice, and even if the use of the U.S. Postal Service could be considered state action, the statute's use of regular, non-certified mail is rationally related to a governmental purpose — a way to protect insureds from cancellation of their policies with no notice; the statute's requirement of notification through the U.S. Postal Service does not, however, rise to the level of state action and no due process violation occurred when the legislature enacted this statute, nor does such a constitutional violation occur from utilizing the U.S. mail to provide notice. *Johnson v. Encompass Ins. Co.*, — Ark. —, — S.W.3d —, 2003 Ark. LEXIS 620 (Nov. 20, 2003).

Illustrative Cases.

Proof of mailing of a notice of cancellation on an automobile liability policy was sufficient to establish notice of cancellation, as a matter of law, when the insured denied receipt of the notice. *Atlanta Cas. Co. v. Swinney*, 315 Ark. 565, 868 S.W.2d 501 (1994).

The affidavit of an insurance company employee was sufficient to establish that a

notice of cancellation was mailed to the insured at the address shown in the policy, notwithstanding that there was no indication that the employee was the person who actually mailed the notice. *Shoffey v. Progressive Northwestern Ins. Co.*, 70 Ark. App. 458, 20 S.W.3d 424 (2000).

Insureds had no protected property right in any coverage beyond the lapse date and, thus, there was no protected property or liberty interest that could have given rise to a due process claim, as contended by the insureds, who argued that their rights were violated when the insurer failed to give them actual notice of non-renewal; there was no state action because the action was taken by an insurance company and the use of the United States mail to give notice under this section did not rise to the level of state action. *Johnson v. Encompass Ins. Co.*, — Ark. —, — S.W.3d —, 2003 Ark. LEXIS 620 (Nov. 20, 2003).

Incorrect Address.

Whether the insurer had knowledge or should have known that the insured's address on the application was incorrect is a material question of fact for the jury's determination which should have been answered before the trial court determined whether sufficient notice of cancellation was given. *Wozniak v. Colonial Ins. Co.*, 46 Ark. App. 331, 885 S.W.2d 902 (1994).

23-89-307. Eligibility for automobile liability assigned risk plan.

(a) When a policy of automobile liability insurance is cancelled, other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which § 23-89-305 applies, the insurer shall notify the named insured of his or her possible eligibility for automobile liability insurance through the automobile liability assigned risk plan.

(b) The notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

History. Acts 1969, No. 333, § 6;
A.S.A. 1947, § 66-4012.

CASE NOTES

Cited: Cheatham v. 100% Certain Underwriters at Lloyds, 783 F. Supp. 1174 (E.D. Ark. 1991).

23-89-308. Nonliability of commissioner and insurer.

There shall be no liability on the part of and no cause of action of any nature shall arise against the Insurance Commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to the grounds for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the grounds for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

History. Acts 1969, No. 333, § 7; A.S.A. 1947, § 66-4013.

SUBCHAPTER 4 — UNINSURED MOTORIST COVERAGE

SECTION.

- 23-89-401. Definition.
- 23-89-402. Applicability of insurer's insolvency protection.
- 23-89-403. Bodily injury coverage required.

SECTION.

- 23-89-404. Property damage coverage.
- 23-89-405. Subrogation of insurer making payment.

Effective Dates. Acts 1983, No. 732, § 2: Jan. 1, 1984.

Acts 1985, No. 713, § 2: July 1, 1986.

Acts 1995, No. 527, § 6: Mar. 6, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present insurance laws should be clarified to indicate that once an insured has rejected certain automobile insurance that the insurer should not be required thereafter to notify the insured of the availability of the rejected coverage at such time as the coverage not rejected is renewed, reinstated, substituted, amended, or replaced; that this act so provides; and this act should go into effect immediately in order to clarify the law as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1334, § 5: became law without Governor's signature. Noted Apr. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present insurance laws should be clarified to indicate that once an insured has rejected bodily injury coverage that the insurer should not be required thereafter to notify the insured of the availability of the rejected coverage at such time as the coverage not rejected is renewed, reinstated, substituted, amended, or replaced; that this act so provides; and this act should go into effect immediately in order to clarify the law as soon as possible. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

ALR. Punitive damages as within coverage of uninsured or underinsured motorist insurance. 54 ALR 4th 1186.

Right of insured precluded from recovery against owner or operator of uninsured motor vehicle because governmental immunity to recover uninsured motorist benefits. 55 ALR 4th 806.

Am. Jur. 7 Am. Jur. 2d, Auto. Ins., § 293 et seq.

Ark. L. Rev. Uninsured Motorist Coverage: Litigation and Problems, 22 Ark. L. Rev. 152.

Uninsured Motorist Coverage — A Sug-

gested Approach to Consistency, 23 Ark. L. Rev. 167.

Insurance — The Burden of Proving Noninsurance Under Uninsured Motorist Statute, 23 Ark. L. Rev. 292.

Insurance — Effect of Workmen's Compensation on Uninsured Motorist Coverage, 23 Ark. L. Rev. 498.

Insurance — Uninsured Motorist Coverage — Set-Off of Amounts Payable Under Medical Payments Coverage, 25 Ark. L. Rev. 548.

C.J.S. 45 C.J.S., Ins., § 896.1.

CASE NOTES

Applicability.

Uninsured motorist coverage does not apply to an insured killed while driving his employer's uninsured vehicle when liability is based solely on the workers' compensation statute rather than any vehicle-related negligence. *Tuggle v. Shelter Mut. Ins. Co.*, 961 F.2d 794 (8th Cir. 1992).

Where plaintiff was the survivor of employee who, while driving his employer's truck in the course of employment, hit

another vehicle and was killed, and where employer had no workers' compensation insurance, plaintiff could not substitute the employee's personal uninsured motorist coverage for the employer's lack of workers' compensation insurance. *Tuggle v. Shelter Mut. Ins. Co.*, 961 F.2d 794 (8th Cir. 1992).

Cited: *State Farm Mut. Auto. Ins. Co. v. Lindsey*, 54 Ark. App. 390, 926 S.W.2d 850 (1996).

23-89-401. Definition.

For the purposes of automobile liability insurance, covering liability arising out of the ownership, maintenance, or use of any motor vehicle registered or principally garaged in this state, unless the context otherwise requires, "uninsured motor vehicle" shall be deemed to include, subject to the terms and conditions of the coverage, an insured motor vehicle when the liability insurer thereof is unable to make payment with respect to the legal liability of its insured with the limits specified therein because of insolvency.

History. Acts 1965, No. 464, § 2; A.S.A. 1947, § 66-4004.

CASE NOTES

ANALYSIS

Elective coverage.
Set-off.
Uninsured motorist.

Elective Coverage.

By terms of the Arkansas Uninsured Motorist Statute, uninsured motorist coverage is elective rather than mandatory. *Automobile Club Inter-Insurance Exch. v.*

State Farm Mut. Auto. Ins. Co., 302 Ark. 78, 787 S.W.2d 237 (1990).

Set-Off.

Trial court did not err in denying set-off for the disability payments made to insured by his insurer under its disability provision where the jury heard testimony from insured and his wife about the disabling effects of his injuries as well as the likelihood that he would continue to suffer from them and received evidence that insurer had paid disability benefits to insured; the jury could have taken that proof into account in reaching its verdict.

State Farm Mut. Auto. Ins. Co. v. Rose, 52 Ark. App. 175, 916 S.W.2d 764 (1996).

Uninsured Motorist.

A motorist who carries at least the minimum amount of insurance required by the Motor Vehicle Safety Responsibility Act does not become an uninsured motorist if the policy limits become exhausted. *Payne v. Farm Bureau Mut. Ins. Co.*, 298 Ark. 540, 768 S.W.2d 543 (1989).

Cited: *Vaught v. State Farm Fire & Cas. Co.*, 413 F.2d 539 (8th Cir. 1969); *Shelter Mut. Ins. Co. v. Toney*, 300 Ark. 89, 776 S.W.2d 362 (1989).

23-89-402. Applicability of insurer's insolvency protection.

(a) An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect when the liability insurer of the tortfeasor becomes insolvent within one (1) year after an accident.

(b) Nothing in this section shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided in this subchapter.

History. Acts 1965, No. 464, § 3; A.S.A. 1947, § 66-4005.

CASE NOTES

Cited: *Vaught v. State Farm Fire & Cas. Co.*, 413 F.2d 539 (8th Cir. 1969).

23-89-403. Bodily injury coverage required.

(a)(1) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto and is not less than limits described in § 27-19-605, under provisions filed with and approved by the Insurance Commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom.

(2) However, the coverage required to be provided under this section shall not be applicable when any insured named in the policy has rejected the coverage in writing, and this rejection shall continue until withdrawn in writing by the insured.

(3)(A) Should a named insured or applicant purchase third-party liability coverage in greater limits than the minimum provided in § 27-19-605, the insurer shall have available and the agent shall

offer a named insured or applicant coverage required under this section in limits up to his or her third-party liability limits.

(B) No insurer shall be required to offer, provide, or make available coverage conforming to this section in connection with an excess policy, umbrella policy, or any other policy which does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, or use of a specifically identified motor vehicle.

(C)(i) An insured or applicant not desiring to purchase higher limits shall reject the increased limits in writing on the application for insurance coverage, although agents must offer the increased limits to all new applicants for insurance on and after the passage of this act.

(ii) The requirement for written rejection shall be applicable to new business written on and after January 1, 2000.

(iii) For an existing business, insurers shall provide at the next two (2) renewals after the passage of this act notice that such increased limits are available.

(D) When an existing-named insured has coverage under this section less than the insured's third-party liability limits, that coverage shall not change on July 30, 1999, unless a named insured requests in writing to purchase the higher limits.

(b) After a named insured or applicant for insurance rejects this coverage, the insurer or any of its affiliates shall not be required to notify any insured in any renewal, reinstatement, substitute, amended, or replacement policy as to the availability of such coverage.

History. Acts 1965, No. 464, § 1; 1977, No. 532, § 1; 1983, No. 732, § 1; A.S.A. 1947, § 66-4003; Acts 1995, No. 527, § 2; 1995, No. 1334, § 1; 1997, No. 203, § 1; 1999, No. 899, § 1; 2001, No. 1276, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 1995, No. 1334, § 1. This section was also amended by Acts 1995, No. 527, § 2, to read as follows:

“(a) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto and is not less than limits described in § 27-19-605, under provisions filed with and approved by the Insurance Commissioner, for the protection of persons insured thereunder who are legally entitled

to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom.

“(b) After a named insured or applicant for insurance rejects this coverage, the insurer or any of its affiliates shall not be required to notify any insured in any renewal, reinstatement, substitute, amended, or replacement policy as to the availability of such coverage.”

Publisher's Notes. In reference to the term “passage of this act” in (a)(3), Acts 1999, No. 899, which added this language, was signed by the Governor on March 29, 1999, and became effective July 30, 1999.

Amendments. The 1999 amendment inserted “to be provided” following “coverage required” in (a)(2); and rewrote (a)(3).

The 2001 amendment substituted “has rejected the coverage in writing” for “shall reject the coverage” in (a)(2).

RESEARCH REFERENCES

Ark. L. Notes. Copeland, A Brief Survey of Some Important 1990 Insurance Law Decisions, 1991 Ark. L. Notes 75.

Ark. L. Rev. Construction of this section through American National Property and Casualty Co. v. Ellis, 315 Ark. 524, — S.W.2d — (1994), 47 Ark. L. Rev. 789.

UALR L.J. Strother, Survey of Insurance Law, 3 UALR L. J. 242.

Survey — Insurance, 10 UALR L.J. 217.

Fifteenth Annual Survey of Arkansas Law, 15 UALR L.J. 427.

Chamberlin & Holt, Why Arkansas Should Overturn its Anti-Stacking Precedent: A Look at Aggregating Uninsured and Underinsured Motorist Coverage, 21 UALR L.J. 413.

Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

CASE NOTES

ANALYSIS

In general.

Purpose.

Applicability.

Automobiles.

Legislative intent.

Policy provisions.

— Exclusions.

— Reduction of coverage.

Recoveries.

Rejection.

Uninsured motorist or vehicle.

In General.

This section does not provide for personal insurance as opposed to vehicle coverage; instead, it provides automobile liability insurance coverage with respect to the ownership, maintenance, or use of any motor vehicle registered or principally garaged in this state. Crawford v. Emcasco Ins. Co., 294 Ark. 569, 745 S.W.2d 132 (1988); First Sec. Bank v. Doe, 297 Ark. 254, 760 S.W.2d 863 (1988).

This section requires uninsured motorist coverage be provided an employee using his employer's vehicle which is insured with uninsured motorist coverage. First Sec. Bank v. Doe, 297 Ark. 254, 760 S.W.2d 863 (1988).

Purpose.

The purpose of providing the mandatory offering of uninsured motorist coverage was to provide those who purchased liability insurance with protection for injuries caused by persons who did not purchase liability coverage. Howard v. Grain Dealers Mut. Ins. Co., 342 F. Supp. 1125 (W.D. Ark. 1972).

The purpose of this section is to put the injured party in as good position as it

would have been in had the uninsured motorist been minimally insured as required by statute. Youngman v. State Farm Mut. Auto. Ins. Co., 334 Ark. 73, 971 S.W.2d 248 (1998).

Applicability.

The purpose of this section was to require the same amount of coverage to one injured by the negligence of a motorist who carries no liability insurance as would be available had the motorist had the minimum coverage necessary to meet the requirements of the Motor Vehicle Safety Responsibility Act, set out in § 27-19-605. Aetna Ins. Co. v. Smith, 263 Ark. 849, 568 S.W.2d 11 (1978).

The legislature's intent was that uninsured motorist coverage should apply only where injury is the result of a collision involving the insured's car and a car owned by an uninsured motorist and that uninsured motorist coverage should not apply where the accident involves the insured's car only; therefore, that portion of the insured motorist coverage policy which denied recovery to "covered" persons injured by vehicles owned by themselves or their families was not void as against public policy. Davis v. Bean, 804 F.2d 1018 (8th Cir. 1986).

As a matter of law, uninsured motorist coverage in a policy covers only accidents caused by drivers of uninsured automobiles. Williams v. Shelter Mut. Ins. Co., 315 Ark. 701, 870 S.W.2d 387 (1994).

A garage owner's liability insurance policy acts also as an automobile liability insurance coverage and a garage owner should have been offered the opportunity to purchase uninsured motorist coverage. Columbia Mut. Ins. Co. v. Estate of Baker, 65 Ark. App. 22, 984 S.W.2d 829 (1999).

Automobiles.

The term "motorcycle" was not recognized as included in the word "automobile" under Arkansas laws. *Phillips ex rel. Phillips v. Midwest Mut. Ins. Co.*, 329 F. Supp. 853 (W.D. Ark. 1971).

Legislative Intent.

The General Assembly did not intend that rejection of uninsured motorist coverage in one insurance contract be binding in a subsequent one. *American Nat'l Property & Cas. Co. v. Ellis*, 315 Ark. 524, 868 S.W.2d 469 (1994).

Notably missing from this section are the words "private passenger" as a modifier of the term "automobile liability insurance"; the fact that the legislature chose to specifically require the offering of underinsured-motorist coverage only in conjunction with the issuance of "private passenger automobile liability insurance" policies demonstrates its desire to exclude commercial policies from the requirements of § 23-89-209. *Monday v. Canal Ins. Co.*, 348 Ark. 435, 73 S.W.3d 594 (2002).

Policy Provisions.

"Other insurance coverage" clause was not violative of this section whether or not the insurance policies were carried by the same company or different companies. *Treece v. Home Ins. Co.*, 295 F. Supp. 262 (E.D. Ark. 1969).

There was no reason why an insurer could not limit his coverage of vehicles owned by the insured to the automobile or motor vehicle only. *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972).

A "hit-and-run" provision in an automobile policy which did not require insured to prove the hit-and-run automobile was uninsured when there was physical contact and the operator or owner of the automobile could not be ascertained was a valid liberalization of the coverage required by this section and thus the provision did not contravene public policy. *Ward v. Consolidated Underwriters*, 259 Ark. 696, 535 S.W.2d 830 (1976).

Uninsured Motorist Act was not violated by provision in policy insuring school bus which required that an insured have physical contact with the bus in order to be entitled to benefits under the policy. *Southern Farm Bureau Cas. Ins.*

Co. v. Fields, 262 Ark. 144, 553 S.W.2d 278 (1977).

Where insured paid premiums for uninsured motorist liability coverage and, at the time she purchased her policy, insurer did not even offer underinsured motor vehicle coverage, insured's receipt of the very type of insurance for which she paid premiums did not reduce her coverage, did not give a windfall to the insurer, and was not against the public policy of the state. *Hawkins v. State Farm Fire & Cas. Co.*, 302 Ark. 582, 792 S.W.2d 307 (1990).

Uninsured motorist coverage applies when the collision in question involves the operator of another vehicle which is uninsured; an insurance policy with this provision is not against public policy because this section states that uninsured motorist coverage only applies when an accident is caused by an uninsured automobile. *Williams v. Shelter Mut. Ins. Co.*, 315 Ark. 701, 870 S.W.2d 387 (1994).

—Exclusions.

Exclusion by insurer from the "uninsured motorist" coverage of its policy of automobiles owned by a government or a public agency is void and of no effect. *Carter v. St. Paul Fire & Marine Ins. Co.*, 283 F. Supp. 384 (E.D. Ark. 1968), *aff'd*, 413 F.2d 539 (8th Cir. 1969); *Vaught v. State Farm Fire & Cas. Co.*, 413 F.2d 539 (8th Cir. 1969).

A policy excluding recovery for any accident involving an uninsured vehicle and an uninsured motorist, which exclusion was not submitted to the insurance commissioner pursuant to this section, was not invalid since it did not violate the statutory provision that uninsured motorist protection be offered and the insurer made no attempt to secure liability insurance on the vehicle involved. *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972).

This section does not restrict the provisions of insurance contracts so as to render void an exclusion provision providing that insured with uninsured motorist coverage in one automobile not be covered while driving another vehicle owned by him which did not have uninsured motorist coverage. *Holcomb v. Farmers Ins. Exch.*, 254 Ark. 514, 495 S.W.2d 155 (1973); *Crawford v. Emcasco Ins. Co.*, 294 Ark. 569, 745 S.W.2d 132 (1988).

Exclusion of uninsured motorist cover-

age for bodily injury sustained by any person while occupying, or when struck by, any motor vehicle owned by the insured or any family member which is not insured for this coverage under a policy which defined uninsured vehicle as a land motor vehicle or trailer of any type held valid. *Crawford v. Emcasco Ins. Co.*, 294 Ark. 569, 745 S.W.2d 132 (1988).

Uninsured motorist insurance coverage may not be limited so as to exclude a user of an insured vehicle. *First Sec. Bank v. Doe*, 297 Ark. 254, 760 S.W.2d 863 (1988).

—Reduction of Coverage.

A clause in a policy providing that coverage under the "uninsured motorist" clause shall be reduced by the total of all amounts paid under any workmen's compensation, disability benefits, or any similar law is void. *Carter v. St. Paul Fire & Marine Ins. Co.*, 283 F. Supp. 384 (E.D. Ark. 1968), *aff'd*, 413 F.2d 539 (8th Cir. 1969); *Travelers Ins. Co. v. National Farmers Union Property & Cas. Co.*, 252 Ark. 624, 480 S.W.2d 585 (1972).

A provision in an automobile policy that an insurer shall not be obligated to pay under uninsured motorist coverage for that part of damages which the insured may be entitled to recover from the owner or operator of an uninsured automobile, which represents expenses for medical services paid or payable under the medical payments coverage of policy, is void and against public policy in that it reduces the minimum coverage of uninsured motorist protection prescribed and required by law. *Heiss v. Aetna Cas. & Sur. Co.*, 250 Ark. 474, 465 S.W.2d 699 (1971).

The 1991 amendment to § 23-89-209 makes it clear that the legislature intended the 1987 Act, when passed, to provide that an insured's recovery of underinsured motorist coverage should not be reduced or set-off by the amount received from the tortfeasor. *Henderson v. Universal Underwriters Ins. Co.*, 768 F. Supp. 688 (E.D. Ark. 1991).

Recoveries.

For cases discussing amount and distribution of coverage and recovery where other insurance clause is included in policy, see *Safeco Ins. Co. of Am. v. Robey*, 399 F.2d 330 (8th Cir. 1968); *Childers v. Southern Farm Bureau Cas. Ins. Co.*, 282 F. Supp. 866 (E.D. Ark. 1968); *Jones v. Mor-*

rison, 284 F. Supp. 1016 (W.D. Ark. 1968); *MFA Mut. Ins. Co. v. Wallace*, 245 Ark. 230, 431 S.W.2d 742 (1968); *Harris v. Southern Farm Bureau Cas. Ins. Co.*, 247 Ark. 961, 448 S.W.2d 652 (1970); *Dugal v. Commercial Std. Ins. Co.*, 456 F. Supp. 290 (W.D. Ark. 1978).

The injured policyholder should only receive the limits of his underinsured coverage if his total damages equal or exceed that limit plus the amount received from the tortfeasor. *Henderson v. Universal Underwriters Ins. Co.*, 768 F. Supp. 688 (E.D. Ark. 1991).

Rejection.

Where minor purchased insurance coverage on his motorcycle but rejected uninsured motorist protection and paid the premium accordingly, he could not thereafter sue on the uninsured motorist provision of the policy on the ground that, being a minor, he had the right to disaffirm such rejection. *Lamb v. Midwest Mut. Ins. Co.*, 296 F. Supp. 131 (W.D. Ark. 1969), *aff'd*, 421 F.2d 179 (8th Cir. 1970).

Where, after the insured had rejected uninsured motorist coverage, the insurer issued an endorsement for a substitute vehicle, the rejection of uninsured motorist coverage was not effective as to the coverage provided under the endorsement. *Lucky v. Equity Mut. Ins. Co.*, 259 Ark. 846, 537 S.W.2d 160 (1976).

Summary judgment was improperly granted where evidence was insufficient to find that there had been a knowing rejection of the uninsured motorist coverage. *Tisdale v. Hicks*, 268 Ark. 1111, 599 S.W.2d 145 (Ct. App. 1980).

When the parties to an insurance contract agree to a policy endorsement which has the effect of substituting coverage of one automobile for that of another, the transaction constitutes new insurance "delivered or issued for delivery in this state"; the addition of the words "and this rejection shall continue until withdrawn in writing by the insured" to subsection (b) of this section did not change this holding. *American Nat'l Property & Cas. Co. v. Ellis*, 315 Ark. 524, 868 S.W.2d 469 (1994).

Where the insured requested that his insurance policy be renewed with the same coverage as his previous policy, which did not include uninsured motorist coverage, there was no clear, intentional, and knowing rejection of uninsured mo-

torist coverage. *Columbia Mut. Ins. Co. v. Estate of Baker*, 65 Ark. App. 22, 984 S.W.2d 829 (1999).

Written rejection of uninsured motorist bodily injury coverage is not required. *Estate of Baker v. Columbia Mut. Ins. Co.*, 71 Ark. App. 345, 32 S.W.3d 36 (2000).

Uninsured Motorist or Vehicle.

Where the question of whether the driver of an automobile constituted an uninsured motorist was controverted, the burden was upon the insured to make proof of such fact, and such proof could not be supplied by pleadings. *Southern Farm Bureau Cas. Ins. Co. v. Gottsponer*, 245 Ark. 735, 434 S.W.2d 280 (1968).

Where plaintiff was unable to prove the hit-and-run automobile was uninsured he was denied recovery under the uninsured motorist provision. *Ward v. Consolidated Underwriters*, 259 Ark. 696, 535 S.W.2d 830 (1976).

Where driver of truck which struck insured's vehicle was not an agent or employee of the corporation which hired the truck driver's employer to haul gravel, the corporation was not legally responsible for the truck; therefore, the truck was uninsured to the extent of the difference between the amount of coverage the employer had on the truck and the amount required by the Financial Responsibility Act. *State Farm Mut. Auto. Ins. Co. v. Cates*, 261 Ark. 129, 546 S.W.2d 423 (1977).

Evidence held to be insubstantial that the car was "uninsured" at the time of the

accident within the meaning of this section. *Home Ins. Co. v. Harwell*, 263 Ark. 884, 568 S.W.2d 17 (1978).

Nothing in this section suggests that the General Assembly intended to allow an insured to purchase a liability policy, which included uninsured motorist coverage, for one of his vehicles and to extend that coverage to other uninsured vehicles owned by the insured. *Crawford v. Emcasco Ins. Co.*, 294 Ark. 569, 745 S.W.2d 132 (1988).

Cited: *Pinkus v. Southern Farm Bureau Cas. Ins. Co.*, 292 F. Supp. 141 (E.D. Ark. 1968); *MFA Mut. Ins. Co. v. Bradshaw*, 245 Ark. 95, 431 S.W.2d 252 (1968); *MFA Mut. Ins. Co. v. McKinley*, 245 Ark. 326, 432 S.W.2d 484 (1968); *Allstate Ins. Co. v. Harrison*, 307 F. Supp. 743 (W.D. Ark. 1969); *Edmundson v. Commercial Union Ins. Co.*, 249 Ark. 350, 459 S.W.2d 112 (1970); *Alexander v. Pilot Fire & Cas. Ins. Co.*, 331 F. Supp. 561 (E.D. Ark. 1971); *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972); *Barnhill v. Farm Bureau Mut. Ins. Co.*, 12 Ark. App. 123, 671 S.W.2d 233 (1984); *Edens v. Shelter Mut. Ins. Co.*, 923 F.2d 79 (8th Cir. 1991); *Gullett v. Brown*, 307 Ark. 385, 820 S.W.2d 457 (1991); *Shelter Mut. Ins. Co. v. Irvin*, 309 Ark. 331, 831 S.W.2d 135 (1992); *Nationwide Mut. Ins. Co. v. Worthey*, 314 Ark. 185, 861 S.W.2d 307 (1993); *Warford v. State Farm Mut. Auto. Ins. Co.*, 871 F. Supp. 1085 (W.D. Ark. 1994); *Fimpel v. State Auto. Mut. Ins. Co.*, 322 Ark. 797, 911 S.W.2d 950 (1995).

23-89-404. Property damage coverage.

(a) Every insured purchasing uninsured motorist bodily injury coverage shall be provided an opportunity to include uninsured motorist property damage coverage, subject to provisions filed with and approved by the Insurance Commissioner, applicable to losses in excess of two hundred dollars (\$200). However, the deductible of two hundred dollars (\$200) shall not apply if:

(1) The vehicle involved in the accident is insured by the same insurer for both collision and uninsured motorist property damage coverage; and

(2) The operator of the other vehicle has been positively identified and is solely at fault.

(b) No insurer shall be required to offer limits of uninsured motorist property damage coverage greater in amount than the property damage liability limits purchased by the insured.

(c)(1) After the uninsured motorist property damage coverage has been made available to an insured one (1) time and has been rejected in writing, it need not again be made available in any continuation, renewal, reinstatement, or replacement of the policy, or the transfer of vehicles insured thereunder, unless the insured makes a written request for the coverage.

(2) However, whenever a new application is submitted in connection with any renewal, reinstatement, or replacement transaction, the provisions of this section shall apply in the same manner as when a new policy is being issued.

(d) As used in this section, "property damage" means damage to the insured vehicle.

History. Acts 1965, No. 464, § 1; 1977, No. 532, § 1; 1983, No. 732, § 1; 1985, No. 713, § 1; A.S.A. 1947, § 66-4003.

RESEARCH REFERENCES

UALR L.J. Strother, Survey of Insurance Law, 3 UALR L.J. 242.

Survey — Insurance, 10 UALR L.J. 217.

CASE NOTES

ANALYSIS

Purpose.
Applicability.
Automobiles.
Policy provisions.
Recoveries.
Rejection.
Uninsured motorist or vehicle.

Purpose.

The purpose of providing the mandatory offering of uninsured motorist coverage was to provide those who purchased liability insurance with protection for injuries caused by persons who did not purchase liability coverage. *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972).

The purpose of this section was to require the same amount of coverage to one injured by the negligence of a motorist who carries no liability insurance as would be available had the motorist had the minimum coverage necessary to meet the requirements of the Motor Vehicle Safety Responsibility Act, set out in § 27-19-605. *Aetna Ins. Co. v. Smith*, 263 Ark. 849, 568 S.W.2d 11 (1978).

The legislature's intent was that uninsured motorist coverage should apply only where injury is the result of a collision

involving the insured's car and a car owned by an uninsured motorist and that uninsured motorist coverage should not apply where the accident involves the insured's car only; therefore, that portion of the uninsured motorist coverage policy which denied recovery to "covered" persons injured by vehicles owned by themselves or their families was not void as against public policy. *Davis v. Bean*, 804 F.2d 1018 (8th Cir. 1986).

Applicability.

Uninsured motorist coverage does not apply when an accident involves the insured's car only. *Pardon v. Southern Farm Bureau Cas. Ins. Co.*, 315 Ark. 537, 868 S.W.2d 468 (1994).

Automobiles.

The term "motorcycle" was not recognized as included in the word "automobile" under Arkansas laws. *Phillips ex rel. Phillips v. Midwest Mut. Ins. Co.*, 329 F. Supp. 853 (W.D. Ark. 1971).

Policy Provisions.

Exclusion by insurer from the "uninsured motorist" coverage of its policy of automobiles owned by a government or a public agency is void and of no effect. *Carter v. St. Paul Fire & Marine Ins. Co.*,

283 F. Supp. 384 (E.D. Ark. 1968), *aff'd*, 413 F.2d 539 (8th Cir. 1969); *Vaught v. State Farm Fire & Cas. Co.*, 413 F.2d 539 (8th Cir. 1969).

"Other insurance coverage" clause was not violative of this section whether or not the insurance policies were carried by the same company or different companies. *Treece v. Home Ins. Co.*, 295 F. Supp. 262 (E.D. Ark. 1969).

There was no reason why an insurer could not limit his coverage of vehicles owned by the insured to the automobile or motor vehicle only. *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972).

A policy excluding recovery for any accident involving an uninsured vehicle and an uninsured motorist, which exclusion was not submitted to the Insurance Commissioner pursuant to this section, was not invalid since it did not violate the statutory provision that uninsured motorist protection be offered and the insurer made no attempt to secure liability insurance on the vehicle involved. *Howard v. Grain Dealers Mut. Ins. Co.*, 342 F. Supp. 1125 (W.D. Ark. 1972).

This section does not restrict the provisions of insurance contracts so as to render void an exclusion provision providing that insured with uninsured motorist coverage in one automobile not be covered while driving another vehicle owned by him which did not have uninsured motorist coverage. *Holcomb v. Farmers Ins. Exch.*, 254 Ark. 514, 495 S.W.2d 155 (1973).

A "hit-and-run" provision in an automobile policy which did not require insured to prove that the hit-and-run automobile was uninsured when there was physical contact and the operator or owner of the automobile could not be ascertained was a valid liberalization of the coverage required by this section, and thus the provision did not contravene public policy. *Ward v. Consolidated Underwriters*, 259 Ark. 696, 535 S.W.2d 830 (1976).

Uninsured Motorist Act was not violated by provision in policy insuring school bus which required that an insured have physical contact with the bus in order to be entitled to benefits under the policy. *Southern Farm Bureau Cas. Ins. Co. v. Fields*, 262 Ark. 144, 553 S.W.2d 278 (1977).

A policy requiring another vehicle to

trigger the policy's uninsured motorist coverage does not violate this state's public policy. *Pardon v. Southern Farm Bureau Cas. Ins. Co.*, 315 Ark. 537, 868 S.W.2d 468 (1994).

Recoveries.

For cases discussing amount and distribution of coverage and recovery where other insurance clause is included in policy, see *Safeco Ins. Co. of Am. v. Robey*, 399 F.2d 330 (8th Cir. 1968); *Childers v. Southern Farm Bureau Cas. Ins. Co.*, 282 F. Supp. 866 (E.D. Ark. 1968); *Jones v. Morrison*, 284 F. Supp. 1016 (W.D. Ark. 1968); *MFA Mut. Ins. Co. v. Wallace*, 245 Ark. 230, 431 S.W.2d 742 (1968).

In action brought by insured against his insurance carrier, where driver of truck which caused injury was not an agent or employee of the corporation which hired insured's employer to haul gravel, the insurance carrier was not entitled to a reduction of its liability to the insured, despite settlement received from corporation since the corporation was not legally liable for the use of the truck. *State Farm Mut. Auto. Ins. Co. v. Cates*, 261 Ark. 129, 546 S.W.2d 423 (1977).

Rejection.

Where minor purchased insurance coverage on his motorcycle but rejected uninsured motorist protection and paid the premium accordingly, he could not thereafter sue on the uninsured motorist provision of the policy on the ground that, being a minor, he had the right to disaffirm such rejection. *Lamb v. Midwest Mut. Ins. Co.*, 296 F. Supp. 131 (W.D. Ark. 1969), *aff'd*, 421 F.2d 179 (8th Cir. 1970).

Where, after the insured had rejected uninsured motorist coverage, the insurer issued an endorsement for a substitute vehicle, the rejection of uninsured motorist coverage was not effective as to the coverage provided under the endorsement. *Lucky v. Equity Mut. Ins. Co.*, 259 Ark. 846, 537 S.W.2d 160 (1976).

Summary judgment was improperly granted where evidence was insufficient to find that there had been a knowing rejection of the uninsured motorist coverage. *Tisdale v. Hicks*, 268 Ark. 1111, 599 S.W.2d 145 (Ct. App. 1980).

Uninsured Motorist or Vehicle.

Where question of whether driver of automobile was an uninsured motorist

was controverted, the burden was upon the insured to make proof of such fact and such proof could not be supplied by pleadings. *Southern Farm Bureau Cas. Ins. Co. v. Gottsponer*, 245 Ark. 735, 434 S.W.2d 280 (1968).

Where driver of truck which struck insured's vehicle was not an agent or employee of the corporation which hired the truck driver's employer to haul gravel, the corporation was not legally responsible for the truck; therefore, the truck was uninsured to the extent of the difference between the amount of coverage the employer had on the truck and the amount required by the Financial Responsibility Act. *State Farm Mut. Auto. Ins. Co. v.*

Cates, 261 Ark. 129, 546 S.W.2d 423 (1977).

Evidence held to be insubstantial that the car was "uninsured" at the time of the accident within the meaning of this section. *Home Ins. Co. v. Harwell*, 263 Ark. 884, 568 S.W.2d 17 (1978).

Cited: *Pinkus v. Southern Farm Bureau Cas. Ins. Co.*, 292 F. Supp. 141 (E.D. Ark. 1968); *MFA Mut. Ins. Co. v. Bradshaw*, 245 Ark. 95, 431 S.W.2d 252 (1968); *MFA Mut. Ins. Co. v. McKinley*, 245 Ark. 326, 432 S.W.2d 484 (1968); *Alexander v. Pilot Fire & Cas. Ins. Co.*, 331 F. Supp. 561 (E.D. Ark. 1971); *Barnhill v. Farm Bureau Mut. Ins. Co.*, 12 Ark. App. 123, 671 S.W.2d 233 (1984).

23-89-405. Subrogation of insurer making payment.

In the event of payment to any person under the coverage required by this subchapter and subject to the terms and conditions of the coverage, the insurer making the payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of the person against any person or organization legally responsible for the bodily injury for which the payment is made, including the proceeds recoverable from the assets of the insolvent insurer.

History. Acts 1965, No. 464, § 4; A.S.A. 1947, § 66-4006.

RESEARCH REFERENCES

Ark. L. Rev. Insurance — Subrogation — Insured's Dismissal with Prejudice, 24 Ark. L. Rev. 573.

UALR L.J. Note, Insurance — Subrogation — A Subrogation Clause in a

Health Insurance Policy is Enforceable Even Though the Insured Has Not Been Made Whole. *Higginbotham v. Arkansas Blue Cross & Blue Shield*, 312 Ark. 199 (1993), 16 UALR L.J. 475.

CASE NOTES

ANALYSIS

Joinder of third parties.
Set-off.
Subrogation in advance.

Joinder of Third Parties.

The plaintiff in an action to enforce an uninsured motorist clause against his insurance company cannot be compelled under this section or § 16-61-207 to join as third party defendants the alleged tortfeasors, although the defendant insurance company may make the alleged

tortfeasors defendants by cross-complaint. *Home Ins. Co. v. Williams*, 252 Ark. 1012, 482 S.W.2d 626 (1972).

Set-Off.

Trial court erred in denying insurer's motion for a set-off for the medical expenses paid to insured where, even though the underinsured motorist coverage extended to damages for the bodily injuries that insured sustained, the jury did not know — and had no reason to infer from the proof at trial — all or any part of insured's medical expenses had already

been paid by insurer under the medical payments provision of his auto policy; in addition, where part of the money received from the tortfeasor's insurer went to subrogate insurer, but that left \$5,401.42 for which it was not subrogated, to allow insured to recover a verdict that included the cost of those medical expenses that had already been paid by insurer would leave insured with a double recovery contrary to the equitable principle of subrogation. *State Farm Mut. Auto. Ins. Co. v. Rose*, 52 Ark. App. 175, 916 S.W.2d 764 (1996).

Subrogation in Advance.

Where plaintiff's injuries were caused

by the actions of joint tortfeasors and one tortfeasor paid \$10,000 to plaintiff and his insurance carrier, the payment amounted to the collection of subrogation in advance and satisfied the liability under the uninsured motorist provision of the policy since it is clear that if the insurance carrier had paid plaintiff pursuant to the terms of his uninsured motorist coverage it would have been entitled to subrogation under this section. *Black v. Farm Bureau Mut. Ins. Co.*, 272 Ark. 406, 614 S.W.2d 937 (1981).

SUBCHAPTER 5 — AMUSEMENT RIDE AND AMUSEMENT ATTRACTION SAFETY INSURANCE ACT

SECTION.

- 23-89-501. Title.
- 23-89-502. Definitions.
- 23-89-503. Exemptions.
- 23-89-504. Safety inspection and insurance required — Enforcement — Violations.
- 23-89-505. Safety inspections, notice, and insurance required.
- 23-89-506. Inspections and fees.
- 23-89-507. Inspection by insurance company — Change in coverage.
- 23-89-508. Rules and regulations.
- 23-89-509. Cease and desist orders — Notice required.

SECTION.

- 23-89-510. Accidents — Reporting injuries or death — Investigations.
- 23-89-511. Amusement ride operators.
- 23-89-512. Prohibited bungee operations.
- 23-89-513. Posting ride safety rules required.
- 23-89-514. Patron safety.
- 23-89-515. Nondestructive testing.
- 23-89-516. Records.
- 23-89-517. Disposition of funds.
- 23-89-518. Amusement Ride Safety Advisory Board — Creation — Duties.

23-89-501. Title.

This subchapter shall be known and may be cited as the "Amusement Ride and Amusement Attraction Safety Insurance Act".

History. Acts 1983, No. 837, § 1; A.S.A. 1947, § 66-5901.

23-89-502. Definitions.

As used in this subchapter:

(1) "Amusement attraction" means any building or structure around, over, and through which persons may be moved by vehicle or mechanically driven device integral to the building or structure, and which provides amusement, pleasure, thrills, or excitement, but this term does not include theatres, museums, or enterprises principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts;

(2) "Amusement ride" means any mechanical device which carries or conveys passengers along, around, or over a fixed route or course or within a defined area for the purpose of giving the passengers amusement, pleasure, thrills, or excitement and includes the following:

(A) Bungee rides or bungee operations which utilize as a component a bungee cord, which is an elastic rope made of rubber, latex, or other elastic-type materials whether natural or synthetic;

(B) "Go-kart", which means a ride in which a vehicle controlled or driven by patrons specifically designed for and run on a fixed course;

(C) Inflatable attractions such as "space walks", inflatable slides, or inflatable jousting or boxing rings; and

(D) Any wave pool, water slide, or other similar attraction that totally or partially immerses a patron in water;

(3) "Department" means the Department of Labor;

(4) "Director" means the Director of the Department of Labor;

(5) "Nondestructive testing" means the development and application of technical methods, including, but not limited to, radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual, and leak testing to examine materials or components in ways that do not impair their future usefulness and serviceability in order to:

(A) Detect, locate, measure, and evaluate discontinuities, defects, and other imperfections;

(B) Assess integrity, properties, and composition; and

(C) Measure geometrical characters; and

(6) "Owner" means any person who owns an amusement ride or attraction, or in the event that the amusement ride or attraction is leased, the lessee.

History. Acts 1983, No. 837, § 2; A.S.A. 1947, § 66-5902; Acts 1995, No. 631, § 1; 2001, No. 1365, § 1.

Amendments. The 2001 amendment substituted "or over" for "and over" and

added "and includes the following" at the end of the introductory language in (2); added (2)(A) through (2)(D); and made minor stylistic changes in (1).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Regulated Industries, 24 UALR L.J. 595.

23-89-503. Exemptions.

The following amusement rides or attractions are exempt from the provisions of this subchapter:

(1) Nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, swinging gates, and physical fitness devices except when an admission fee is

charged for usage or an admission fee is charged to immediate areas where the equipment is located;

(2) An amusement ride or amusement attraction which is owned and operated by a nonprofit religious, educational, or charitable institution or association, or a fair if the ride or attraction is subject to inspection by the State Fire Marshal or by any political subdivision of the state under its building, fire, electrical, and related public safety ordinances;

(3) Coin-operated amusement rides or amusement attractions located on the premises of retail business establishments; and

(4) An amusement ride or amusement attraction which is owned and operated by the State of Arkansas or any political subdivision thereof.

History. Acts 1983, No. 837, § 5;
A.S.A. 1947, § 66-5905.

23-89-504. Safety inspection and insurance required — Enforcement — Violations.

(a) It is unlawful for any person or entity to operate an amusement attraction or amusement ride, unless the person or entity maintains liability insurance in the minimum amount required by this subchapter at all times during the operation of the amusement attraction or ride in the state and, unless the person has a current safety inspection report made at the time of set-up of the attraction or ride, but before use by the public.

(b)(1) The Director of the Department of Labor may conduct examinations and investigations into the affairs of any person or entity subject to the provisions of this subchapter for the purpose of determining compliance with the provisions of this subchapter.

(2) The director shall administer and enforce the provisions of this subchapter.

(3) The director shall promulgate regulations for the proper administration and enforcement of this subchapter, including regulations establishing minimum safety requirements for the operation and maintenance of amusement rides and attractions.

(4) The director shall employ amusement ride inspectors certified by the National Association of Amusement Ride Safety Officials.

(c) If the director finds that an operator or owner has failed to comply with the provisions of this subchapter, he or she may order the operator or owner to immediately cease operating the amusement attraction or ride and may impose upon the operator or owner an administrative penalty of not more than ten thousand dollars (\$10,000).

(d)(1) If the director finds that an operator or owner failed to comply with the provisions of this subchapter, he or she shall so inform the prosecuting attorney in whose district any purported violation may have occurred.

(2)(A) Upon conviction, the operator or owner shall be guilty of a Class A misdemeanor.

(B) Upon conviction of a willful or knowing violation, the operator or owner shall be guilty of a Class D felony.

(3) Each day of violation shall constitute a separate offense.

(e) The director shall have authority to bring a civil action in any court of competent jurisdiction, without payment of costs or giving bond for costs, to recover any administrative penalty imposed pursuant to this subchapter or to recover any delinquent fees owed pursuant to this subchapter.

(f) The director and his or her deputies, assistants, examiners, and employees and the Director of the Department of Arkansas State Police and his or her deputies, officers, assistants, and employees and any public law enforcement officer shall not be liable for any damages occurring as a result of the implementation of this subchapter.

History. Acts 1983, No. 837, § 8; A.S.A. 1947, § 66-5908; Acts 1987, No. 839, § 4; 1995, No. 631, § 2; 2001, No. 1365, § 2.

Amendments. The 2001 amendment inserted "Enforcement" in the section heading; inserted "or she" and "or her" throughout; redesignated the former introductory language in (b) as present

(b)(1) and added "for the purpose of determining compliance with the provisions of this subchapter" to the end; added (b)(2) through (b)(4); substituted "and may impose" for "or may impose" in the introductory language of (c); added present (e); redesignated former (e) as present (f); and made minor punctuation changes.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Regulated Industries, 24 UALR L.J. 595.

23-89-505. Safety inspections, notice, and insurance required.

(a) Any person or entity desiring to operate any amusement attraction or amusement ride in this state, other than those specifically exempted in this subchapter, shall as a condition thereof obtain a safety inspection report issued by the owner or operator's liability insurer or an inspector employed by the Department of Labor prior to commencing operation or opening to the public.

(b) Each person or entity desiring to operate any amusement attraction or amusement ride in this state, other than those specifically exempted in this subchapter, shall be covered by a policy of insurance issued by an insurance company authorized to do business in Arkansas or by a surplus lines insurer approved in Arkansas and insuring the owner or operator against liability for personal injury or property damage arising out of the use or operation of the amusement attraction or ride, in the minimum amount of one million dollars (\$1,000,000) for each incident or occurrence.

(c)(1) Any person or entity intending to operate an amusement attraction or ride in this state shall notify the director of such intent and shall notify the director of the location, dates, and times of intended operation.

(2) The notice must be made to the director four (4) days prior to intended operation, excluding Saturdays, Sundays, or any legal holidays.

(d) Any person or entity failing to comply with subsection (c) of this section shall be subject to an administrative penalty issued by the Director of the Department of Labor of no more than five thousand dollars (\$5,000) in addition to other penalties, both administrative and criminal, contained in this subchapter.

(e) The owner, manager, or operator shall:

(1) Promptly file proof of insurance with each fair board, sponsoring organization, lessor, landowner, or other person responsible for an amusement attraction or ride being offered for use by the public for each location in this state where each attraction or ride is in operation or is scheduled to be in operation; and

(2) Provide a copy of any safety inspection report to the fair board, sponsoring organization, lessor, landowner, or other person responsible for an amusement attraction or ride being offered for use by the public, upon request or pursuant to contractual agreement.

History. Acts 1983, No. 837, § 3; A.S.A. 1947, § 66-5903; Acts 1987, No. 839, § 1; 1995, No. 631, § 3; 2001, No. 1365, § 3.

Amendments. The 2001 amendment substituted "Safety inspections, notice, and insurance required" for "Safety inspections and insurance required — Inspection fees, etc" in the section heading;

substituted "or an inspector employed by the Department of Labor prior to commencing operation or opening to the public" for "or operator's liability insurer or the Department of Labor" in (a); deleted former (e); redesignated former (f) as present (e) and rewrote the subsection; and made stylistic changes throughout.

23-89-506. Inspections and fees.

(a)(1) The Director of the Department of Labor is authorized to inspect each person or entity to ensure compliance with this subchapter.

(2) Two (2) times per calendar year, the director shall inspect all permanently placed operational amusement rides or attractions located in this state being operated for profit or charity.

(3) All portable amusement rides or attractions shall be inspected by the director every time they are moved to a new location in Arkansas and before they are permitted to commence operation or open to the public.

(4)(A) Inflatable attractions and self-contained mobile playgrounds shall be inspected every six (6) months, unless a more frequent schedule of inspections is established by regulation of the director for certain types of inflatable attractions and self-contained mobile playgrounds.

(B) Self-contained mobile playgrounds shall be inspected pursuant to subdivision (a)(4)(A) of this section only if such playgrounds contain no mechanical or electrical parts, structures, or additions such as blowers or lights.

(b) The director is authorized to make an inspection on an emergency basis when notification pursuant to this subchapter is made less than four (4) days, excluding Saturdays, Sundays, and legal holidays, prior to the date of the operation of the facility, if he or she determines that the

owner or operator could not have reasonably known of the proposed operation prior to the four-day period, and that the owner or operator meets all other requirements for operation in this state.

(c) If the director or an authorized employee of the department finds that any amusement ride or attraction is defective in a manner affecting patron safety or unsafe, he or she shall attach to the amusement ride or attraction a notice and order prohibiting its use or operation. Operation of the amusement ride shall not resume until the unsafe or hazardous condition is corrected and the director or his or her authorized representative permit such operation.

(d) Any inspector certified pursuant to the requirements of this subchapter who, upon inspection of an amusement ride or attraction, finds the ride or attraction to be defective or unsafe shall immediately report the ride or attraction and its condition to the Department of Labor.

(e) The director shall charge a fee to be paid by the owner of any amusement ride or amusement attraction for all amusement ride safety inspections performed by any employee of the department. Such fees shall be as follows:

(1) For one (1) to five (5) rides or attractions, one hundred dollars (\$100);

(2) For six (6) to fifteen (15) rides or attractions, two hundred dollars (\$200);

(3) For sixteen (16) to twenty-five (25) rides or attractions, three hundred dollars (\$300);

(4) For twenty-six (26) to thirty-five (35) rides or attractions, four hundred dollars (\$400); and

(5) For thirty-six (36) and more rides or attractions, six hundred dollars (\$600).

(f) The director is authorized by regulation to implement an inspection fee waiver program for the benefit of a county fair association, provided that:

(1) The county's population is under fifteen thousand (15,000) based on United States Bureau of the Census estimates as of July 1, 1999; and

(2) The county fair association can demonstrate that it would be unable to obtain a carnival for its county fair without such a waiver.

History. Acts 1983, No. 837, § 6; A.S.A. 1947, § 66-5906; Acts 1987, No. 839, § 3; 1995, No. 631, § 4; 2001, No. 1365, § 4.

Amendments. The 2001 amendment added "and fees" to the end of the section

heading; redesignated the former introductory language of (a) as present (a)(1); added (a)(2) through (a)(3); inserted "or she" in (b); and added (c) through (f).

23-89-507. Inspection by insurance company — Change in coverage.

(a)(1) Each insurance company insuring an operator of an amusement attraction or ride as required in this subchapter shall inspect the amusement attraction or rides of the insured for safety at least one (1) time each calendar year.

(2) The operator shall maintain a copy of such a report at the site of operation of the attraction or ride, together with proof of insurance coverage.

(b) If any insurer insuring an operator shall cancel the coverage of the operator, the insurer shall notify the Director of the Department of Labor of the cancellation at least ten (10) days before the cancellation is effective.

(c) The insurer shall immediately notify the director if the cancellation notice is rescinded or coverage is reinstated.

(d) If the insurer finds any amusement attraction or ride to be unsafe or cancels the insurance coverage and so notifies the director, then the director shall immediately issue a cease and desist order preventing any operation until written documentation is provided to the director that the amusement attraction or ride has been made safe or insurance coverage has been obtained.

(e) Any insurance company or surplus lines insurer failing to comply with this section shall be subject to revocation of its certificate of authority or registration by the Insurance Commissioner, or in lieu of suspension or revocation, a fine assessed by the commissioner of not more than fifty thousand dollars (\$50,000).

(f) Any employee or contractor of an insurer inspecting amusement rides in Arkansas shall be registered and certified by the department pursuant to regulation adopted by the director.

History. Acts 1983, No. 837, § 4; A.S.A. 1947, § 66-5904; Acts 1987, No. 839, § 2; 1995, No. 631, § 5; 2001, No. 1365, § 5.

Amendments. The 2001 amendment substituted "one (1) time each calendar

year" for "once each four (4) months" in (a)(1); substituted "Director of the Department of Labor" for "director" in (b); substituted "commissioner" for "Insurance Commissioner" in (e); and added (f).

23-89-508. Rules and regulations.

The Director of the Department of Labor is authorized to adopt appropriate rules and regulations to carry out the intent and purposes of this subchapter and to assure its efficient and effective enforcement.

History. Acts 1983, No. 837, § 7; A.S.A. 1947, § 66-5907; Acts 1995, No. 631, § 6.

23-89-509. Cease and desist orders — Notice required.

(a)(1) Upon issuance of cease and desist orders pursuant to § 23-89-504 or § 23-89-507, the Director of the Department of Labor shall promptly transmit his or her order to the Director of the Department of Arkansas State Police.

(2) Whenever possible, the Director of the Department of Labor shall notify any applicable fair boards or sponsoring organizations in the respective districts or counties of this state where the attractions or rides are in operation or are scheduled to be in operation.

(3) The Director of the Department of Labor shall promptly notify these parties when a cease and desist order has been rescinded upon proof of the operator's compliance with the provisions of this subchapter.

(b) Upon receipt of the Director of the Department of Labor's order to cease and desist operations pursuant to subsection (a) of this section, the Department of Arkansas State Police shall promptly serve the order on the operator and order the operator immediately to cease operation of all applicable amusement attractions or rides in operation or scheduled to be in operation in those districts or counties until the cease and desist order has been rescinded.

History. Acts 1987, No. 839, § 2; 1995, No. 631, § 7.

23-89-510. Accidents — Reporting injuries or death — Investigations.

(a) Any mechanical, structural, or electrical defects directly affecting patron safety for which an amusement ride is closed to patron use for a period of time more than three (3) hours, must be reported in writing personally or by facsimile by the owner or operator to the Department of Labor within twenty-four (24) hours after the closing of the amusement ride.

(b)(1) The operator of an amusement ride shall immediately cease to operate any ride involved in a fatality or serious physical injury. The owner or operator shall notify the department of such an accident within four (4) hours of its occurrence by telephone or facsimile. The owner or operator shall file a written accident report personally or by facsimile with the department within twenty-four (24) hours of the accident. Within twenty-four (24) hours after receipt of such a report, the department shall initiate an investigation of the occurrence and an inspection of the ride. The department shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the amusement facility at which the amusement ride is located.

(2) Unless authorized in writing by the department, no amusement ride may be operated, moved, altered, repaired, or tampered with, except to protect life, limb, and property following an accident involving a serious injury or death until the department has completed its inspection and investigation.

History. Acts 2001, No. 1365, § 6.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Regulated
Industries, 24 UALR L.J. 595.

23-89-511. Amusement ride operators.

(a) Any person directly operating any amusement ride or attraction:

- (1) Must be at least sixteen (16) years of age;
- (2) Must be trained in the proper use and operation of the device;
- (3) Must operate only one (1) ride at a time; and
- (4) May not operate any amusement ride or attraction while intoxicated.

(b) For the purposes of this section, “intoxicated” means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination thereof, to such a degree that the operator’s reactions, motor skills, and judgment are substantially altered and the operator, therefore, constitutes a clear and substantial danger of physical injury or death to ride patrons.

History. Acts 2001, No. 1365, § 7.

23-89-512. Prohibited bungee operations.

The following bungee operations are prohibited:

- (1) A bungee operation conducted with balloons, blimps, helicopters, or other aircraft;
- (2) “Sand bagging”, which is the practice of holding onto any object, including another person, while bungee jumping, for the purpose of exerting more force on the bungee cord to stretch it further, and then releasing the object during the jump causing the jumper to rebound with more force than could be created by the jumper’s weight alone;
- (3) Tandem or multiple bungee jumping, except for rides that the manufacturer has designed for multiple patrons; and
- (4) Bungee jumping from any bridge, overpass, or any other structure not specifically designed as an amusement ride or attraction.

History. Acts 2001, No. 1365, § 8.

23-89-513. Posting ride safety rules required.

All requirements for rider safety within the control of the rider must be prominently posted in a manner reasonably expected to provide notice to the rider. Such requirements or restrictions should include:

- (1) Any height or weight restrictions;
- (2) Safety belt or bars or other safety restraint systems requirements; and
- (3) Prohibitions against:
 - (A) Standing before cessation of the ride or attraction; and
 - (B) Horseplay.

History. Acts 2001, No. 1365, § 9.

23-89-514. Patron safety.

(a) All patrons on any amusement ride or attraction subject to this subchapter, at a minimum, shall:

(1) Obey the posted safety rules and oral instructions issued by the amusement ride owner or manager or such owner's employee or agent;

(2) Refrain from acting in any manner that may cause or contribute to injuring the patron or others, including:

(A) Interfering with the safe operation of the amusement ride;

(B) Not engaging any safety devices provided;

(C) Disconnecting or disabling a safety device except at the express instruction of the operator;

(D) Altering or enhancing the intended speed, course, or direction of the amusement ride;

(E) Extending arms and legs beyond the carrier or seating area;

(F) Throwing, dropping, or expelling an object from or toward an amusement ride; and

(G) Getting on or off an amusement ride or attraction except at the designated time and area, unless directed to do otherwise by an operator due to an emergency.

(b) Parents or guardians of patrons under eighteen (18) years of age have a duty to ensure that the patron complies with the provisions of this section.

(c) Any person eighteen (18) years of age or older who violates the provisions of this section may be charged with a Class A misdemeanor.

History. Acts 2001, No. 1365, § 10.

23-89-515. Nondestructive testing.

(a) An owner may not operate an amusement ride for which the manufacturer recommends nondestructive testing, unless the owner complies with the manufacturer's standards for the testing and the ride meets the manufacturer's acceptance criteria.

(b) If manufacturer's nondestructive testing standards are unavailable for an amusement ride and the Department of Labor deems it necessary, the owner shall provide such standards through a registered professional engineer or engineering agency or any individual qualified by training and experience to compile standards based upon the ride's specifications and history and using accepted engineering practices. The engineer or other qualified individual shall be approved by the Director of the Department of Labor and the ride must meet the criteria so established.

History. Acts 2001, No. 1365, § 11.

23-89-516. Records.

(a) The Director of the Department of Labor shall keep records and statistics by year of serious injuries and fatalities resulting from

amusement ride accidents. Such records and statistics shall specify the year of the accident, type of injury, type of ride or attraction involved, and cause of the accident.

(b) Each owner or operator shall retain on the premises or with a portable amusement ride the following records:

- (1) Proof of insurance coverage as required by this subchapter;
- (2) The latest safety inspection report by the department and by the owner or operator's insurer;
- (3) All maintenance and repair records for a period of one (1) year;
- (4) All accident records for a period of one (1) year on premises, although such records shall be maintained and subject to being made available to the director for a period of three (3) years;
- (5) A record of employee or operator training for each employee authorized to operate, assemble, disassemble, transport, or conduct maintenance on an amusement ride or attraction; and
- (6) A copy of any affidavit of nondestructive testing required by this subchapter.

History. Acts 2001, No. 1365, § 12.

23-89-517. Disposition of funds.

All money received under the provisions of this subchapter shall be deposited in the State Treasury to the credit of the Department of Labor Special Fund.

History. Acts 2001, No. 1365, § 13.

23-89-518. Amusement Ride Safety Advisory Board — Creation — Duties.

- (a)(1) There is created an Amusement Ride Safety Advisory Board.
- (2)(A) The board shall be appointed by the Governor.
- (B) The Director of the Department of Labor or his or her designee shall be ex officio chair.
- (C) The board shall consist of five (5) additional members:
 - (i) One (1) member of the board shall be the Director of the Department of Parks and Tourism or his or her designee;
 - (ii) One (1) member of the board shall represent owners or operators of amusement rides that are portable in nature;
 - (iii) One (1) member of the board shall represent owners or operators of permanently placed amusement rides;
 - (iv) One (1) member of the board shall represent fair managers in Arkansas; and
 - (v) One (1) member of the board shall represent the general public.
- (3)(A) Except for the Director of the Department of Labor and the Director of the Department of Parks and Tourism, the terms of office of the members shall be for four (4) years or until a successor is appointed.

(B) No member of the board shall be appointed to serve more than two (2) consecutive full terms.

(C) At the time of appointment or reappointment, the Governor shall adjust the length of terms to ensure that the terms of board members are staggered so that, insofar as is possible, an equal number of members shall rotate each year.

(b) The duties of the board shall be:

(1) To assist the Director of the Department of Labor with the formulation of rules and regulations regarding the safe operation of amusement rides; and

(2) To give the Department of Labor such counsel and advice as will aid it in the proper enforcement and administration of the provisions of this subchapter.

(c) Except for the ex officio chair and the Director of the Department of Parks and Tourism, the members of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 2001, No. 1365, § 14; 2003, No. 600, § 1.

Amendments. The 2003 amendment deleted former (a)(2)(B); substituted “five (5) additional members” for “six (6) additional members” in the introductory language of present (a)(2)(C); and made stylistic changes.

CHAPTER 90

ARKANSAS PROPERTY AND CASUALTY INSURANCE
GUARANTY ACT

SECTION.	SECTION.
23-90-101. Title.	to insureds of insurer's insolvency.
23-90-102. Purpose.	
23-90-103. Definitions.	23-90-112. Estimation of amount needed to pay claims — Assessment of insurers.
23-90-104. Applicability — Exceptions.	
23-90-105. Construction.	23-90-113. Failure to pay assessment.
23-90-106. Arkansas Property and Casualty Advisory Association — Creation — Members.	23-90-114. Accounting for and repayment of assessments.
23-90-107. Arkansas Property and Casualty Advisory Association — Procedures.	23-90-115. Payment of covered claims.
23-90-108. Arkansas Property and Casualty Advisory Association — Powers and duties.	23-90-116. Duties of receiver.
23-90-109. Arkansas Property and Casualty Advisory Association — Reports and recommendations.	23-90-117. Right of recovery.
23-90-110. Arkansas Property and Casualty Advisory Association — Right of officers, directors, and employees to contract — Interested parties.	23-90-118. Issuance of new or renewal policies.
23-90-111. Covered claims — Notification	23-90-119. Assessment as credit against taxes.
	23-90-120. Liability of insurer, commissioner, etc.
	23-90-121. Certain advertisements, announcements, and statements prohibited — Exception.
	23-90-122. Rules and regulations.
	23-90-123. Appeal of orders.

Cross References. Property and Casualty Insurance Policy Simplification Act, § 23-80-301 et seq.

Effective Dates. Acts 1977, No. 871, § 21: Mar. 30, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public and that the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 522, § 53: Mar. 17, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public and the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist, this Act being necessary for the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 804, § 33: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the public peace, health and safety shall be in full force and effect from after its passage and approval."

Acts 1987, No. 738, § 10: Apr. 7, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public and the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after its passage and approval."

Acts 1989, No. 417, § 8: Mar. 8, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the present laws on the regulation of the bail bond business and bail generally are confusing and have been applied in an inconsistent manner; that there is an urgent need for the revision of laws pertaining to bail and that this Act is immediately necessary to eliminate deficiencies found in the present law. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 901, § 52: Apr. 6, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the present laws addressed in this omnibus Act on workers' compensation benefits and insurance licensure and other insurance regulatory issues are inadequate for the protection of the Arkansas public and immediate passage of this Act is necessary in order to provide for the protection of the public. Therefore, an emergency is hereby declared to exist and this omnibus Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1272, § 29: Apr. 13, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the present insurance laws, and motor vehicle laws on the automobile assigned risk plan, are inadequate for the protection of the public; and the immediate passage of this Insurance Omnibus Act is necessary in order to provide for the protection of the public. Therefore, an emergency is hereby declared to exist and this Insurance Omnibus Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards

and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 881, § 28: Mar. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly of the State of Arkansas that the present funeral pre-need laws, employee leasing firm laws, and other insurance laws are inadequate to protect the public. In pertinent part, the changes to the Insurance Code needed to assure the stability of funding for the Fraud Investigation Division of the Department must be enacted in the laws of this state well before the new fiscal year beginning July 1, 1999. The changes to authorized appropriations, as well as changes to the disability (health) insurance laws on individuals to conform to the federal laws on group policies with guaranteed renewability require immediate

adoption; and unless this emergency clause is adopted, this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that the term disability insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

UALR L.J. Seventeenth Annual Survey of Arkansas Law — Insurance, 17 UALR L.J. 451.

23-90-101. Title.

This chapter shall be known and may be cited as the "Arkansas Property and Casualty Insurance Guaranty Act".

History. Acts 1977, No. 871, § 1; A.S.A. 1947, § 66-5501.

23-90-102. Purpose.

This chapter is for the purpose of providing funds in addition to assets of insolvent insurers for the protection of the holders of “covered claims” as defined in § 23-90-103 through payment and through contracts of reinsurance or assumption of liabilities or of substitution or otherwise.

History. Acts 1977, No. 871, § 2;
A.S.A. 1947, § 66-5502.

CASE NOTES**ANALYSIS**

Guaranty fund.
Holders of claims.

Guaranty Fund.

The Guaranty Fund is designed to protect individuals, not pay double benefits. *Orren v. Smackover Nursing Home*, 46 Ark. App. 38, 876 S.W.2d 600 (1994).

Insured was not entitled to have the state's Guaranty Fund pay the claims against it based on the fact that the insurance company of the insured was insolvent since the insured's claims were not “covered claims”; for a claim to be covered, Arkansas law required that the insured and its affiliate not have a net worth exceeding \$ 50 million, but the insured admitted that the net worth of the Nevada

corporation that had purchased all of the insured's stock exceeded that amount and the Nevada corporation's control of all of the insured's stock meant the Nevada corporation was an “affiliate” whose net worth was properly counted in determining the insured's total net worth. *Harold Ives Trucking Co. v. Pickens*, — Ark. —, — S.W.3d —, 2003 Ark. LEXIS 690 (Dec. 18, 2003).

Holders of Claims.

A foreign corporation which has its principal place of business elsewhere but which established a substantial presence in Arkansas is not considered a resident, as that term is used in § 23-90-103(2)(A), for the purposes of this subchapter. *Douglas v. Levi Strauss & Co.*, 315 Ark. 380, 868 S.W.2d 70 (1993).

23-90-103. Definitions.

As used in this chapter:

(1) “Commissioner” means the Insurance Commissioner;
(2)(A)(i) “Covered claim” means an unpaid claim of an insured or third party liability claimant which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this chapter applies, and which is issued or assumed, whereby an assumption certificate is issued to the insured, by an insurer licensed to do business in this state, in cases in which the insurer becomes an insolvent insurer and the third party claimant or liability claimant or insured is a resident of this state at the time of the insured event, or the property from which the claim arises is permanently located in this state.

(ii) Covered claims shall also include one hundred percent (100%) of unearned premiums up to an amount not exceeding twenty-five thousand dollars (\$25,000) per policy.

(iii) Individual covered claims shall be limited to three hundred thousand dollars (\$300,000) and shall not include any amount in excess of three hundred thousand dollars (\$300,000).

(B) A "covered claim" shall not include an unpaid claim of an insured or third party liability claimant whose net worth as of December 31 of the year next preceding the date the insurer becomes an insolvent insurer exceeds fifty million dollars (\$50,000,000). However, an insured's or third party liability claimant's net worth on that date shall be deemed to include the aggregate net worth of the insured or third party liability claimant and all of its affiliates as calculated on a consolidated basis.

(C) A "covered claim" shall not include any of the following amounts:

- (i) Any amount awarded as punitive or exemplary damages;
- (ii) Any amount sought as return of premium under any retrospective rating plan; or

- (iii) Any amount due to any reinsurer, insurer, insurance pool, or underwriting association as subrogation recoveries or otherwise. This subdivision (2) shall not prevent the reinsurer, insurer, insurance pool, or underwriting association from presenting the excluded claim to the insolvent insurer or the liquidator, but the claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage provided herein or is in excess of the limits of the policy issued by the insolvent insurer.

(D)(i) A "covered claim" shall not include supplementary payment obligations, including, but not limited to, adjustment fees and expenses, attorney's fees and expenses, court costs, interest, and bond premiums incurred prior to the determination that an insurer is an insolvent insurer under this chapter.

- (ii) With respect to a covered claim for unearned premiums, persons who were residents of this state at the time the policy was issued and persons who are residents of this state at the time the company is found to be an insolvent insurer shall be considered to have covered claims under this chapter.

(3) "Insolvent insurer" means an insurer which, after March 30, 1977, is determined to be insolvent by a court of competent jurisdiction;

(4)(A) "Insurer" means any person who writes any kind of insurance to which this chapter applies under § 23-90-104, including the exchange of reciprocal or inter-insurance contracts, and is licensed to transact insurance in this state.

(B) However, this chapter shall not apply to those persons transacting business as a farmers' mutual aid association pursuant to §§ 23-73-101 — 23-73-107, 23-73-110 — 23-73-114, and 23-73-116;

(5)(A) "Net direct written premiums" means the gross amount of premiums received from policies of insurance issued in this state to which this chapter applies, less return premiums and dividends paid or credited to policyholders.

(B) "Net direct written premiums" does not include premiums for indemnity reinsurance accepted from other licensed insurers, and there shall be no deductions for premiums for indemnity reinsurance ceded to other insurers;

(6) "Payment of covered claims" means actual payment and also means utilization of funds derived from assessments for consummation of contracts of reinsurance or assumption of liabilities or contracts of substitution to provide for liabilities for covered claims; and

(7) "Person" means any individual, corporation, partnership, association, or voluntary organization.

History. Acts 1977, No. 871, § 5; A.S.A. 1947, § 66-5505; Acts 1987, No. 738, § 2; 1993, No. 901, § 45; 1995, No. 1272, § 25; 1999, No. 881, § 15.

Amendments. The 1999 amendment rewrote (2)(C)(iii); deleted (2)(C)(iv); and made a related change.

CASE NOTES

ANALYSIS

Covered claim.

—Default.

—Resident of this state.

Covered Claim.

—Default.

Where contractor was not in default on the contract within the critical time period, the highway department did not have a claim. *Arkansas State Hwy. Comm'n v. Union Indem. Ins. Co.*, 295 Ark. 273, 748 S.W.2d 338 (1988).

—Resident of This State.

A foreign corporation which has its principal place of business elsewhere but which established a substantial presence in Arkansas is not considered a resident, as that term is used in subdivision (2)(A) of this section, for the purpose of this subchapter. *Douglass v. Levi Strauss & Co.*, 315 Ark. 380, 868 S.W.2d 70 (1993).

Nothing in the remainder of this subchapter makes an exception to the resi-

dency requirement. *Douglass v. Levi Strauss & Co.*, 315 Ark. 380, 868 S.W.2d 70 (1993).

Insured was not entitled to have the state's Guaranty Fund pay the claims against it based on the fact that the insurance company of the insured was insolvent since the insured's claims were not "covered claims"; for a claim to be covered, Arkansas law required that the insured and its affiliate not have a net worth exceeding \$50 million, but the insured admitted that the net worth of the Nevada corporation that had purchased all of the insured's stock exceeded that amount and the Nevada corporation's control of all of the insured's stock meant the Nevada corporation was an "affiliate" whose net worth was properly counted in determining the insured's total net worth. *Harold Ives Trucking Co. v. Pickens*, — Ark. —, — S.W.3d —, 2003 Ark. LEXIS 690 (Dec. 18, 2003).

23-90-104. Applicability — Exceptions.

This chapter shall apply to all kinds of direct insurance written by insurers licensed to transact insurance in this state but shall not be applicable to the following:

- (1) Life, annuity, health, or accident and health insurance;
- (2) Mortgage guaranty, financial guaranty, or other form of insurance offering protection against investment risks;
- (3) Bail bonds or appearance bonds as defined in or otherwise referenced in § 17-19-101 et seq;
- (4) Credit insurance;
- (5) Insurance of warranties or service contracts;
- (6) Title insurance;
- (7) Ocean marine insurance; and

(8) Any transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk.

History. Acts 1977, No. 871, § 3; A.S.A. 1947, § 66-5503; Acts 1987, No. 738, § 1; 1989, No. 417, § 3; 2001, No. 1603, § 43.

Amendments. The 2001 amendment substituted "accident and health" for "disability" in (1).

23-90-105. Construction.

This chapter shall be liberally construed to effect the purpose under § 23-90-102 which shall constitute an aid and guide to interpretation.

History. Acts 1977, No. 871, § 4; A.S.A. 1947, § 66-5504.

23-90-106. Arkansas Property and Casualty Advisory Association — Creation — Members.

(a)(1) There is created by this chapter an advisory association to be known as the "Arkansas Property and Casualty Advisory Association", herein called the "advisory association" to be composed of eight (8) insurers.

(2) The Insurance Commissioner shall appoint the insurers who will serve as the initial advisory association. Subsequent members of the advisory association shall serve for terms of office of four (4) years and shall be appointed by the commissioner for terms of four (4) years.

(b) The members of the advisory association shall be chosen to afford fair representation to all insurers subject to this chapter giving due consideration to the various categories of premium income, geographical location, and segments of the industry represented in Arkansas.

(c) Vacancies on the advisory association shall be filled for the remaining period of the term in the same manner as other appointments.

(d) Members shall serve until their successors are appointed.

(e) Members shall serve without pay but may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1977, No. 871, § 14; 1983, No. 522, § 39; A.S.A. 1947, § 66-5514; Acts 1987, No. 738, § 6; 1997, No. 250, § 225.

Publisher's Notes. The terms of the members of the Arkansas Property and Casualty Advisory Association are arranged so that two terms expire every year.

Acts 1983, No. 522, § 51, provided, in part, that the act would be cumulative of prior laws, and that no prior law or part of a law would be deemed in conflict with the

act unless failure to do so would prevent giving effect to an explicit provision of the act.

Acts 1987, No. 738, § 6, provided, in part, that, of the initial advisory association members, two shall be appointed to serve for a one-year term of office, two shall be appointed to serve for a two-year term of office, two shall be appointed to serve for a three-year term of office, and two shall be appointed to serve for a four-year term of office.

23-90-107. Arkansas Property and Casualty Advisory Association — Procedures.

(a) The State Insurance Department shall promulgate reasonable organizational rules for the Arkansas Property and Casualty Advisory Association which shall set forth, among other things, quorum and attendance requirements for meetings, procedural rules to be followed at advisory association meetings, and rules concerning the replacement of members.

(b)(1) The advisory association shall conduct its meetings in Little Rock, Arkansas, in the office of the Insurance Commissioner.

(2) Meetings shall be held upon call by the commissioner or upon written request of a majority of the members.

(3) Meetings shall not be open to the public. Only members of the advisory association, the commissioner, and persons authorized by the commissioner shall attend the meetings.

History. Acts 1977, No. 871, § 14; 1983, No. 522, § 39; A.S.A. 1947, § 66-5514.

Publisher's Notes. For cumulative effect of 1983 amendment to this section, see Publisher's Notes to § 23-90-106.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Open Meetings Under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.

23-90-108. Arkansas Property and Casualty Advisory Association — Powers and duties.

(a)(1) The Arkansas Property and Casualty Advisory Association shall advise and counsel with the Insurance Commissioner upon matters relating to the solvency of insurers.

(2) The commissioner may call a meeting of the advisory association when a court of competent jurisdiction determines that an insurer is insolvent and may call a meeting of the advisory association when he or she determines that a danger of insolvency of an insurer exists.

(3) Upon majority vote, the advisory association shall notify the commissioner of any information indicating that an insurer may be unable or potentially unable to fulfill its contractual obligations and request a meeting with the commissioner.

(4) At the meetings, the commissioner may divulge to the advisory association any information in his or her possession and any records of the State Insurance Department, including examination reports or preliminary reports from examiners relating to the insurer.

(5) The commissioner may summon officers, directors, and employees of an insolvent insurer, or an insurer the commissioner considers to be in danger of insolvency, to appear before the advisory association for conference or for the taking of testimony.

(6) Members of the advisory association shall not reveal information received in the meetings to anyone unless authorized by the commissioner or when required as witness in court.

(b) Upon request by the commissioner, the advisory association shall attend hearings before the commissioner and meet with and advise the commissioner and his or her representatives on matters relating to the affairs of an insolvent insurer and relating to action that may be taken by the commissioner and his or her representatives to best protect the interests of persons holding covered claims against an insolvent insurer and relating to the amount and timing of partial assessments, the marshalling of assets, and the processing and handling of covered claims.

History. Acts 1977, No. 871, § 14; 1983, No. 522, § 39; A.S.A. 1947, § 66-5514; Acts 1987, No. 738, § 6.

Publisher's Notes. For cumulative effect of 1983 amendment to this section, see Publisher's Notes to § 23-90-106.

23-90-109. Arkansas Property and Casualty Advisory Association — Reports and recommendations.

Reports or recommendations made by the Arkansas Property and Casualty Advisory Association to the Insurance Commissioner and his or her representatives shall not be considered public documents and there shall be no liability on the part of and no cause of action against a member of the advisory association or the advisory association itself for any report, individual report, recommendation, or individual recommendation by the advisory association or members to the commissioner or his or her representatives.

History. Acts 1977, No. 871, § 14; 1983, No. 522, § 39; A.S.A. 1947, § 66-5514.

Publisher's Notes. For cumulative effect of 1983 amendment to this section, see Publisher's Notes to § 23-90-106.

23-90-110. Arkansas Property and Casualty Advisory Association — Right of officers, directors, and employees to contract — Interested parties.

(a) Any insurer that has an officer, director, or employee serving as a member of the Arkansas Property and Casualty Advisory Association shall not lose the right to negotiate for and enter into contracts of reinsurance or assumption of liability or contracts of substitution to provide for liabilities for covered claims with the receiver of an insolvent insurer. The entering into any contract shall not be deemed a conflict of interest.

(b) The advisory association or any insurer assessed under this chapter shall be an interested party under § 23-68-118.

History. Acts 1977, No. 871, § 14; 1983, No. 522, § 39; A.S.A. 1947, § 66-5514.

Publisher's Notes. For cumulative effect of 1983 amendment to this section, see Publisher's Notes to § 23-90-106.

23-90-111. Covered claims — Notification to insureds of insurer's insolvency.

(a) This chapter shall apply to covered claims existing prior to the determination that an insurer is an insolvent insurer and to covered claims arising within thirty (30) days after the determination of insolvency or before the policy expiration date if less than thirty (30) days after the determination of insolvency or before the insured replaces the policy or effects its cancellation, if he or she does so within thirty (30) days of the determination of insolvency.

(b) Upon the determination by a court of competent jurisdiction that an insurer is an insolvent insurer, the Insurance Commissioner shall notify the insureds of the insolvent insurer of the determination and of their rights under this chapter. The notification shall be by mail at each insured's last known address, when available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation printed in this state shall be sufficient.

(c) Notwithstanding any other provisions of this chapter, a covered claim shall not include any claim filed with the guaranty fund after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.

History. Acts 1977, No. 871, § 6; A.S.A. 1947, § 66-5506; Acts 1987, No. 738, § 3.

CASE NOTES**No Claim.**

Where contractor was not in default on the contract within the critical time period, the highway department did not

have a claim. *Arkansas State Hwy. Comm'n v. Union Indem. Ins. Co.*, 295 Ark. 273, 748 S.W.2d 338 (1988).

23-90-112. Estimation of amount needed to pay claims — Assessment of insurers.

(a)(1) Whenever a court of competent jurisdiction determines that an insurer has become an insolvent insurer, the receiver appointed in accordance with §§ 23-68-101 — 23-68-113 and 23-68-115 — 23-68-132 shall promptly estimate the amount of additional funds needed to supplement the assets of the insolvent insurer and any available amounts in the fund described in § 23-90-114 which are immediately available to the receiver for the purpose of making payment of all covered claims.

(2) Thereafter, the Insurance Commissioner shall be empowered to make such assessments as may be necessary to produce the additional funds needed to make payment of all covered claims.

(3) The commissioner may make partial assessments as the actual need for additional funds arises for each insolvent insurer.

(b)(1) The commissioner shall assess individual insurers in proportion to the ratio that the total net direct written premium collected in

the State of Arkansas by the insurer during the preceding calendar year bears to the total net direct written premium collected by all insurers, except insolvent insurers, in the State of Arkansas for the preceding calendar year.

(2) Assessments during a calendar year may be made up to, but not in excess of, two percent (2%) of each insurer's net direct written premium for the preceding calendar year.

(3) If the maximum assessment in any calendar year does not provide an amount sufficient for payment of covered claims of insolvent insurers, assessments may be made in the next and successive calendar years.

(c) Insurers determined to be insolvent insurers by a court of competent jurisdiction shall be exempt from assessment from and after the date of that determination and until the commissioner determines that the insurer is no longer an insolvent insurer.

(d)(1) It shall be the duty of each insurer to pay the amount of its assessment to the receiver within thirty (30) days after the commissioner gives notice of the assessment, and assessments may be collected by the receiver through suits brought for that purpose.

(2) Venue for suits shall lie in Pulaski County.

(3) The receiver shall not be required to give an appeal bond in any cause arising hereunder.

(e) Funds derived from assessments under the provisions of this chapter shall not become assets of the insolvent insurer but shall be deemed a special fund loaned to the receiver for payment of covered claims. This loan shall be repayable to the extent available from the funds of the insolvent insurer, as provided in this chapter.

History. Acts 1977, No. 871, § 7;
A.S.A. 1947, § 66-5507.

23-90-113. Failure to pay assessment.

(a) After notice and hearing, the Insurance Commissioner may suspend or revoke the certificate of authority to transact business in this state of any insurer who fails to pay an assessment when due.

(b) As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed one hundred dollars (\$100) per day.

(c) Any insurer whose certificate of authority to do business in this state is cancelled or surrendered shall be liable for any unpaid assessments made prior to the date of the cancellation or surrender.

History. Acts 1977, No. 871, § 8;
A.S.A. 1947, § 66-5508; Acts 1987, No.
738, § 4.

23-90-114. Accounting for and repayment of assessments.

(a)(1) Upon receipt from an insurer of payment of an assessment or partial assessment, the receiver shall provide the insurer with a participation receipt which shall create a liability against the assessment fund maintained by the Insurance Commissioner.

(2) The assessment fund from which an advance is made to an insolvent insurer for the payment of covered claims shall be regarded as a general creditor of the insolvent insurer for the amount of funds so advanced, provided that, with reference to the remaining balance of any advances received by the receiver and not expended in payment of covered claims, the claim of the assessment fund shall have preference over other general creditors.

(3) The receiver of any insolvent insurer shall adopt accounting procedures reflecting the expenditure and use of all funds received from the assessment fund and shall make a final report of the expenditure and use of these funds to the commissioner. This final report shall set forth the remaining balance, if any, from the moneys advanced from the assessment fund.

(4) The receiver shall also make any interim reports concerning the accounting and that may be required by the commissioner.

(5) Upon completion of the final report and as soon after completion as is practicable, the receiver shall refund the remaining balance of the advances to the assessment fund.

(b) Should the commissioner at any time determine that there exist moneys in the assessment fund in excess of those reasonably necessary for efficient future operation under the terms of this chapter, the commissioner shall cause the excess moneys to be returned pro rata to the holders of any participation receipts on which there is a balance outstanding after deducting any credits taken against premium taxes as authorized in § 23-90-119. If after a distribution the commissioner finds that an excess amount still exists in the fund or if there are no participation receipts on which there is an outstanding balance, the commissioner shall cause the excess amount to be deposited with the Treasurer of State for credit to the General Revenue Fund of this state.

History. Acts 1977, No. 871, § 9;
A.S.A. 1947, § 66-5509.

23-90-115. Payment of covered claims.

(a)(1) When an insurer has been determined by a court of competent jurisdiction to be an insolvent insurer, the receiver shall marshal all assets of the insolvent insurer, including, but not limited to, those which are designated as, or that constitute, reserve assets offsetting reserve liabilities for all liabilities falling within the term "covered claim" as defined in § 23-90-103.

(2) The receiver shall apply all of the assets to the payment of covered claims but may utilize funds received from assessments in the

payment of claims, pending orderly liquidation or disposition of the assets.

(3) When all covered claims have been paid or satisfied by the receiver, any balance remaining from the liquidation or disposition of the assets shall first be applied in repayment of funds expended from assessments.

(4) These repayments shall be credited as remaining balances and be refunded as provided in § 23-90-114.

(b) In addition to authorization to make actual payment of covered claims, the receiver is specifically authorized to utilize the marshalled assets and funds derived from assessments for the purpose of negotiating and consummating contracts of reinsurance or assumption of liabilities or contracts of substitution to provide for outstanding liabilities of covered claims.

(c) This chapter shall not be construed to impose restrictions or limitations upon the authority granted or authorized the Insurance Commissioner or the receiver elsewhere in the Arkansas Insurance Code and other statutes of this state but shall be construed and authorized for use in conjunction with other portions of the Arkansas Insurance Code dealing with delinquency proceedings.

(d) In any lawsuit brought by a receiver of an insolvent insurer for the purpose of recovering assets of the insolvent insurer, the fact that claims against the insolvent insurer have been or will be paid under the provisions of this chapter shall not be admissible for any purposes and shall not be placed before any jury either by evidence or argument.

History. Acts 1977, No. 871, § 10; A.S.A. 1947, § 66-5510.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was originally enacted by Acts 1959, No. 148. Acts 1959, No. 148, is codified as §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former 23-62-203, 23-62-204, 23-62-205, 23-63-101 [repealed], 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, 23-63-401 — 23-63-404 [repealed], 23-63-601 — 23-63-604, 23-63-605 — 23-63-609 [repealed], 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835 — 23-63-838, 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, 23-64-206 [repealed], 23-64-207, 23-64-208 [repealed], 23-64-209, 23-64-210, 23-64-211 — 23-64-213 [repealed], 23-64-214 — 23-64-221, 23-64-222 [repealed], 23-64-227, 23-64-228 [trans-

ferred], 23-64-229 [transferred], 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-214, 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-116, 23-74-101 — 23-74-141 [revised], 23-75-101 — 23-75-116, 23-75-117 [repealed], 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, former 23-79-107, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610.

CASE NOTES

Unearned Premiums.

Unearned premiums are in the nature of a refund of premium and do not come within the concept of payment under the

policy; thus, they do not count against the policy limit and must be repaid to the insured. *Hardester v. Eubanks*, 292 Ark. 610, 731 S.W.2d 780 (1987).

23-90-116. Duties of receiver.

(a)(1) Covered claims against an insolvent insurer placed in temporary or permanent receivership under an order of liquidation, rehabilitation, or conservation by a court of competent jurisdiction shall be processed and acted upon by the receiver or ancillary receiver in the same manner as other claims as provided in §§ 23-68-101 — 23-68-113 and 23-68-115 — 23-68-132 and as ordered by the court in which the receivership is pending.

(2) However, the funds received from assessments shall be liable only for the difference between the amount of the covered claims approved by the receiver and the amount of the assets marshalled by the receiver for payment to holders of covered claims, and, in ancillary receiverships in this state, funds received from assessments shall be liable only for the difference between the amount of the covered claims approved by the ancillary receiver and the amount of assets marshalled by the receivers in other states for application to payment of covered claims within this state.

(3) Funds received from assessments shall not be liable for any amount over and above that approved by the receiver for a covered claim, and any action brought by the holder of the covered claim appealing from the receiver's action shall not increase the liability of the funds, provided that the receiver may review his or her action in approving a covered claim and for just cause modify the approval at any time during the pendency of the receivership.

(b)(1) If a receiver is appointed to handle the affairs of an insolvent insurer, the receiver shall determine whether or not covered claims should or can be provided for in whole or in part by reinsurance, assumption, or substitution.

(2)(A) Upon determination by the receiver that actual payment of covered claims should be made, the receiver shall give notice of the determination to claimants falling within the class of covered claims.

(B) The receiver shall mail the notice to the latest address reflected in the records of the insolvent insurer.

(C) If the records of the insolvent insurer do not reflect the address of a claimant, the receiver may give notice by publication in a newspaper of general circulation.

(D) This notice shall state the time within which the claimant must file his or her claim with the receiver, which time shall in no event be less than ninety (90) days from the date of the mailing or publication of the notice.

(3) The receiver may require, in whole or in part, that sworn claim forms be filed and may require that additional information or evidence

be filed as may be reasonably necessary for the receiver to determine the legality or the amount due under a covered claim.

(c)(1) Upon determination by the receiver that actual payment of covered claims should be made or upon order of the court to the receiver to give notice for the filing of claims, any person who has a cause of action against an insured of the insolvent insurer under a liability insurance policy issued or assumed by the insurer, if the cause of action meets the definition of covered claim, shall have the right to file a claim with the receiver regardless of the fact that the claim may be contingent, and this claim may be approved as a covered claim if:

(A) It may be reasonably inferred from the proof presented upon the claim that the person would be able to obtain a judgment upon the cause of action against the insured;

(B) The person furnishes suitable proof that no further valid claims against the insurer arising out of his or her cause of action other than those already presented can be made; and

(C) The total liability of the insurer to all claimants arising out of the same act of its insured is no greater than its total liability would be were it not in liquidation, rehabilitation, or conservation.

(2) In the proceedings of considering covered claims, no judgment against an insured taken after the date of the commencement of the delinquency proceedings or the appointment of a receiver shall be considered as evidence of liability or of the amount of damages, and no judgment against an insured taken by default or by collusion prior to the commencement of the delinquency proceedings or the appointment of a receiver shall be considered as conclusive evidence either of the liability of the insured to the person upon the cause of action or of the amount of damages to which the person is therein entitled.

(d) The acceptance of payment from the receiver by the holder of a covered claim or the acceptance of the benefits of contracts negotiated by the receiver providing for reinsurance or assumption of liabilities or for substitution shall constitute an assignment to the insolvent insurer of any cause of action or right of the holder of the covered claim arising from the occurrence upon which the covered claim is based. The assignment shall be to the extent of the amount accepted or the value of the benefits provided by the contracts of reinsurance or assumption of liabilities or substitution.

History. Acts 1977, No. 871, § 11;
A.S.A. 1947, § 66-5511.

23-90-117. Right of recovery.

(a)(1) Any person having a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer, which is also a covered claim, shall be required to exhaust first his or her right under the policy.

(2) Any amount payable on a covered claim under this chapter shall be reduced by the amount of any recovery under the insurance policy.

(b)(1) Any person having a claim or legal right of recovery under any governmental insurance or guaranty program which is also a covered claim shall be required to exhaust first his or her right under the program. Any amount payable on a covered claim under this chapter shall be reduced by the amount of any recovery under the program.

(2) Any person having a claim which may be recovered under more than one (1) insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first-party claim for damage to property with a permanent location, he or she shall seek recovery first from the association of the location of the property. If it is a workers' compensation claim, he or she shall seek recovery first from the association of the residence of the claimant.

(3) Any recovery under this chapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

History. Acts 1977, No. 871, § 12; A.S.A. 1947, § 66-5512; Acts 1987, No. 738, § 5.

CASE NOTES

Purpose.

The Guaranty Fund is designed to protect individuals, not pay double benefits. *Orren v. Smackover Nursing Home*, 46 Ark. App. 38, 876 S.W.2d 600 (1994).

The Guaranty Fund is not responsible for paying medical bills previously paid by employee's insurance carrier. *Orren v. Smackover Nursing Home*, 46 Ark. App. 38, 876 S.W.2d 600 (1994).

23-90-118. Issuance of new or renewal policies.

(a) An insolvent insurer placed in receivership for which assessments have been made under the provisions of this chapter shall not be authorized, upon release from receivership, to issue new or renewal insurance policies until such time as the insolvent insurer has repaid in full the entire amount advanced to it from the assessment fund set out in § 23-90-114. However, upon application of the Arkansas Property and Casualty Advisory Association and after a hearing, the Insurance Commissioner may permit the issuance of new policies in accordance with a plan of operations by the released insurer for repayment of the advances.

(b) In approving the plan, the commissioner may place such restrictions upon the issuance of new or renewal policies as the commissioner deems necessary to the implementation of the plan.

(c) The commissioner shall give ten (10) days' notice of the hearing to the insurers to whom the participation receipts were issued for an assessment made for the benefit of the released insurer. The holders of the receipts shall be entitled to appear at and participate in the hearing.

History. Acts 1977, No. 871, § 13;
A.S.A. 1947, § 66-5513.

23-90-119. Assessment as credit against taxes.

(a) Any assessment paid by an insurer under this chapter shall be allowed to an insurer as a credit against its premium tax payable under §§ 26-57-601 — 26-57-605 and 26-57-607.

(b) The tax credit referred to in this section shall be allowed at a rate of twenty percent (20%) per year for five (5) successive years following the date of assessment.

(c) The balance of any assessment paid by the insurer and not claimed as a tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in the annual statements.

(d) However, any insurer which neglects to take the twenty percent (20%) credit during the year allowable will not be allowed to carry over the credit for the following year or years.

History. Acts 1977, No. 871, § 15; 1983, No. 522, § 40; 1985, No. 804, § 26; A.S.A. 1947, § 66-5515; Acts 1987, No. 738, § 7; 1999, No. 881, § 16.

Publisher's Notes. For cumulative effect of 1983 amendment to this section, see Publisher's Notes to § 23-90-106.

Acts 1985, No. 804, § 32, provided, in part, that the act would be cumulative of prior laws, and that no prior law or part of a law would be deemed to be in conflict

with the act unless failure to do so would prevent giving effect to an explicit provision of the act.

Amendments. The 1999 amendment redesignated former (a)(1)-(3) as present (b)-(d); in (a), substituted "paid by an insurer" for "paid by a foreign insurer" and "§§ 26-57-601 — 26-57-605" for "§§ 26-57-601 — 26-57-603, 26-57-605"; and deleted former (b).

23-90-120. Liability of insurer, commissioner, etc.

There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer subject to this chapter or its agents or employees, the Arkansas Property and Casualty Advisory Association, or the Insurance Commissioner or his or her representatives for any action by them in the performance of their powers and duties under this chapter.

History. Acts 1977, No. 871, § 16;
A.S.A. 1947, § 66-5516.

23-90-121. Certain advertisements, announcements, and statements prohibited — Exception.

(a) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in other ways, any advertisement, announcement, or statement which uses the

existence of the Arkansas Property and Casualty Advisory Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter.

(b) However, this section shall not apply to the advisory association or to any other entity which does not sell or solicit insurance.

History. Acts 1977, No. 871, § 18;
A.S.A. 1947, § 66-5518.

23-90-122. Rules and regulations.

The State Insurance Department is authorized and directed to issue such reasonable rules and regulations as may be necessary to carry out the various purposes and provisions of this chapter, and in augmentation thereof.

History. Acts 1977, No. 871, § 17;
A.S.A. 1947, § 66-5517.

23-90-123. Appeal of orders.

Any order of the Insurance Commissioner under this chapter may be appealed as provided by § 23-61-307.

History. Acts 1977, No. 871, § 19;
A.S.A. 1947, § 66-5519; Acts 1987, No. 738, § 8.

CHAPTER 91
PREPAID LEGAL INSURANCE

SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. ARKANSAS LEGAL INSURANCE ACT.
3. LONG-TERM CARE LIABILITY INSURANCE.

Publisher's Notes. Acts 2001, No. 1555, § 17, substituted "Prepaid Legal Insurance" for "Professional Liability Insurance" in the chapter heading.

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — ARKANSAS LEGAL INSURANCE ACT

SECTION.

- 23-91-201. Title.
23-91-202. Construction and purposes.
23-91-203. Definitions.

SECTION.

- 23-91-204. Applicability of insurance law.
23-91-205. Applicability of unauthorized insurance law.

SECTION.

- 23-91-206. Exemption.
- 23-91-207. Penalty provisions — Applicability of §§ 23-60-108 and 23-60-109.
- 23-91-208. Authorization required.
- 23-91-209. Conditions for issuing certificate of authority.
- 23-91-210. Regulation of policy forms.
- 23-91-211. Regulation of rates.
- 23-91-212. Approval of forms and rates.
- 23-91-213. Segregated accounts required — Exception.
- 23-91-214. Management and exclusive agency contracts.
- 23-91-215. Annual report.
- 23-91-216. Reserves required.

SECTION.

- 23-91-217. Investment of assets.
- 23-91-218. Trade practices.
- 23-91-219. Licensing of agents.
- 23-91-220. Examination of insurer's affairs.
- 23-91-221. Professional ethics.
- 23-91-222. Revocation of certificate of authority.
- 23-91-223. Rehabilitation and liquidation.
- 23-91-224. Authority to promulgate rules.
- 23-91-225. Fees.
- 23-91-226. Taxation.
- 23-91-227. Public documents.

Cross References. Manner of payment of claims, § 23-63-107.

Effective Dates. Acts 1987, No. 456, § 31: Mar. 30, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this state concerning the insurance matters covered in the subject of this act are inadequate for the protection of the public and the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 580, § 29, provided: "The effective date of the provisions of this act is July 1, 2002. However, the commissioner may extend the effective date to a subsequent date, but no later than October 31, 2002, if he finds that implementation of the act is not possible by July 1, 2002."

Acts 2001, No. 580, § 30: Mar. 6, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly of the State of Arkansas that the present laws on licensure of Arkansas surplus line brokers do not meet compliance with the Gramm-Leach-Bliley Act of 1999, Public Law 106-102, 113 Stat. 1338, and that other insurance laws are

inadequate to protect the public; that in pertinent part, the changes to the insurance code are needed to assure compliance with the provisions of that new federal law which do not allow discrimination in licensure of resident and nonresident applicants for insurance by state insurance regulators; that Arkansas must achieve compliance with this new Federal law which was enacted in 1999 and which has a November 12, 2002 compliance deadline in regard to the Arkansas Insurance Department's regulation of agents, brokers, surplus line brokers, and other applicants for individual and corporate licenses; and that implementation after the effective date of this act will require significant time on the part of the industry and the Arkansas Insurance Department to come into compliance by the November 12, 2002, deadline. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 7 Am. Jur. 2d, Attys., § 198,
43 Am Jur. 2d, Ins., § 726.

UALR L.J. Survey of Arkansas Law,
Insurance, 1 UALR L.J. 210.

23-91-201. Title.

This subchapter shall be cited as the “Arkansas Legal Insurance Act”.

History. Acts 1977, No. 368, § 26;
A.S.A. 1947, § 66-5426.

23-91-202. Construction and purposes.

This subchapter shall be interpreted liberally in order to achieve the following purposes:

- (1) To encourage the development of effective and economically sound methods of making legal services more readily available;
- (2) To protect the interests of the users of legal services and of the public of this state with a minimum of restrictions on experimentation with new forms of organization, administration, or benefits;
- (3) To seek to have the risk inherent in experimentation borne by the promoters of new plans rather than by the consumers;
- (4) To permit and encourage the providing of legal services through persons other than professional insurers subject to practical and reasonable financial and regulatory requirements;
- (5) To permit and encourage fair and effective competition among the various systems of financing legal services; and
- (6) To ensure that each person being provided with legal insurance has the right to seek performance of covered legal services by the attorney of his or her choice. The attorney shall be required to reasonably comply with the plan provisions.

History. Acts 1977, No. 368, § 1;
A.S.A. 1947, § 66-5401.

23-91-203. Definitions.

As used in this subchapter:

- (1) “Commissioner” means the Insurance Commissioner;
- (2) “Insurer” means any person who obtains a certificate of authority under this subchapter;
- (3)(A) “Legal insurance” means that assumption of a contractual obligation to provide, during a specified interval of time, specified legal services or reimbursement for legal expenses in consideration of a specified payment, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, in such a manner that the total cost incurred by assuming the obligation is to be spread directly or indirectly among a group of persons. It does not include the provision of, or reimbursement for, legal services inciden-

tal to other insurance coverages. The following are not considered insurance under the insurance laws of this state:

(i) Retainer contracts made with individual clients with the fees based on estimates of the nature and amount of services that will be provided to the specific client and similar contracts made with a group of clients involved in the same or closely related legal matters such as class actions;

(ii) The providing of no benefits other than consultation and advice in connection with, or a part of, referral services;

(iii) The providing of limited legal services regarding simple legal matters on an informal basis, not involving a legally binding promise, in the context of an employment, educational, or similar relationship;

(iv) Legal services provided by unions or employee associations to their members in matters relating to employment or occupation; and

(v) Legal services provided by an agency of the federal or state government or a subdivision thereof to its employees.

(B) "Contractual obligation" in subdivision (3)(A) of this section includes any arrangement in which those persons for whom services are to be provided under the arrangement have reasonable expectations of enforceable rights; and

(4) "Person" means the definition as used in § 23-60-102.

History. Acts 1977, No. 368, § 2;
A.S.A. 1947, § 66-5402.

23-91-204. Applicability of insurance law.

(a) The provisions of the insurance law apply generally to legal insurance offered by insurers licensed to write other kinds of insurance. However, legal insurance sold by insurers under a certificate of authority obtained under this subchapter shall be regulated by the provisions of §§ 23-91-202, 23-91-203, 23-91-206, 23-91-208 — 23-91-212, 23-91-214, 23-91-219, 23-91-221, 23-91-224, and 23-91-226 instead of corresponding sections of the Arkansas Insurance Code.

(b) Orders, rules, or regulations of the Insurance Commissioner issued under the provisions of this subchapter shall be subject to the provisions of the general insurance laws and the provisions of the Administrative Procedure Act, § 25-15-201 et seq., relating to hearings and appeals.

(c) Except as otherwise provided in this subchapter, the provisions of the general insurance law shall not apply to insurers authorized under this subchapter.

History. Acts 1977, No. 368, §§ 22, 23;
A.S.A. 1947, §§ 66-5422, 66-5423.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

originally enacted by Acts 1959, No. 148.
Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-91-205. Applicability of unauthorized insurance law.

Subject to the provisions of this subchapter, the relevant and applicable provisions of the Unauthorized Insurers Process Act, § 23-65-201 et seq., and the provisions of §§ 23-65-101 and 23-65-102 apply to persons transacting the business of legal insurance.

History. Acts 1977, No. 368, § 21;
A.S.A. 1947, § 66-5421.

23-91-206. Exemption.

(a)(1) This subchapter does not apply to any person not domiciled in this state but issuing only group, blanket, or franchise policies or certificates to certificate holders or policyholders who reside in this state if fewer than twenty-five percent (25%) of the certificate holders or policyholders reside in this state and the person is regulated to a comparable extent by another state in which a larger number of certificate holders or insureds reside.

(2)(A) However, any person who is exempt from the provisions of this subchapter pursuant to this section shall, prior to the issuance of any group, blanket, or franchise policies or certificates in this state, file these policies or certificates with the Insurance Commissioner for informational purposes, together with a document to support the person's exempt status under this section.

(B) Also, each person shall file annually with the commissioner, on or before April 15, a report to verify that the exemption is still valid.

(b)(1) Prior to administering a legal referral services program, or prior to enrollment of members in a program in this state, any person who is exempt from the provisions of this subchapter shall file with the commissioner program materials and documents to support the program's exempt status under this subchapter.

(2) Subsequent to the commissioner's approval of the exemption of the program from the provisions of this subchapter, the person shall promptly file documents referencing any modifications or changes in the program for the commissioner's review and determination as to whether the program as modified is exempt from the provisions of this subchapter.

History. Acts 1977, No. 368, § 3;
A.S.A. 1947, § 66-5403; Acts 1987, No. 619, § 1.

23-91-207. Penalty provisions — Applicability of §§ 23-60-108 and 23-60-109.

The relevant and applicable provisions of §§ 23-60-108 and 23-60-109 apply to violations of this subchapter.

History. Acts 1977, No. 368, § 24;
A.S.A. 1947, § 66-5424.

23-91-208. Authorization required.

(a) No person may transact the business of legal insurance in this state without first obtaining a certificate of authority under this subchapter.

(b)(1) Any person may apply to the Insurance Commissioner for, and obtain, a certificate of authority to transact the business of legal insurance in compliance with this subchapter.

(2) This section does not by itself enlarge the powers of any corporation given by its articles of incorporation or charter but does authorize a corporation formed under the general business, insurance, or general nonprofit corporation laws of this state, including hospital service corporations, medical service corporations, and hospital and medical service corporations, to include in its power the authority to transact the business of legal insurance.

(c)(1) Any application shall be in a form prescribed by the commissioner. If the applicant is not domiciled in this state, the application must be accompanied by a power of attorney executed by the applicant appointing an Arkansas resident as its registered agent for service of process, to be filed in writing with the commissioner and his or her successors in office, as the true and lawful attorney of the applicant, in and for this state, upon whom all lawful process in any legal action or proceeding against the applicant, on a cause of action arising in this state, may be served.

(2) On and after January 1, 2003, all foreign and alien insurers licensed under this chapter shall file with the commissioner a designation of an Arkansas resident as an agent for service of legal process, and the commissioner shall maintain a listing in conformity with § 23-63-301 et seq.

History. Acts 1977, No. 368, § 3; 1979, No. 942, § 19; A.S.A. 1947, § 66-5403; Acts 2001, No. 1604, § 116.

Amendments. The 2001 amendment, in (c)(1), inserted "an Arkansas resident

... in writing with," inserted "or her," and deleted "and authorized deputies" preceding "as the true and lawful"; and added (c)(2).

23-91-209. Conditions for issuing certificate of authority.

(a) Upon receipt of an application for a certificate of authority, the Insurance Commissioner shall issue or deny a certificate pursuant to this subchapter within sixty (60) days of the application. This may be extended for an additional thirty (30) days by notice to the applicant prior to the expiration of the first sixty (60) days. A certificate of authority shall be issued upon payment of the application fee prescribed in § 23-91-225 if the commissioner is satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and of good reputation;

(2) The applicant has paid-in capital in an amount not less than one hundred thousand dollars (\$100,000) and additional working capital or

surplus funds in an amount deemed by the commissioner to be adequate in relation to the proposed plan of operation; and

(3) The applicant demonstrates the willingness and ability to assure that the promised benefits can be provided. In making this determination, the commissioner shall consider so far as applicable:

(A) Any agreements with lawyers or paralegal personnel for the provisions of legal services;

(B) The financial soundness of the applicant's arrangements for legal services and the schedule of rates proposed to be used in connection therewith;

(C) Any agreement with another person authorized under this subchapter, an insurer licensed under the general insurance laws to do business in this state, a reinsurer eligible under the laws or regulations of this state to provide reinsurance, or an agency of the federal or state government for insuring the payment of the cost of legal services or the provision for automatic applicability of an alternative coverage in the event the insurer is unable to perform its obligation;

(D) Any deposit of securities, in kind and an amount determined to be appropriate by the commissioner, as a guarantee that the obligations to provide the promised benefits will be performed; and

(E) If the applicant is licensed as an insurer under other insurance laws, whether the applicant has complied with the requirements of those laws.

(b) A certificate of authority shall be issued in accordance with this subchapter and may be continued within the applicable provisions of § 23-63-211, but reference therein to § 23-63-216 and payment of taxes shall instead refer to the applicable provision of this subchapter.

History. Acts 1977, No. 368, § 4; A.S.A. 1947, § 66-5404; Acts 1987, No. 456, § 26; 2001, No. 1604, § 117.

Amendments. The 2001 amendment substituted "securities, in kind and" for "cash or securities, in" in (a)(3)(D).

23-91-210. Regulation of policy forms.

(a)(1) Each contractual obligation for legal insurance shall be evidenced by a policy or master policy.

(2) Legal insurance may be written on an individual, group, blanket, or franchise basis.

(3) Each person insured under a group policy must be issued a certificate of coverage.

(4) No legal insurance policy or certificate of any kind may be issued or delivered in this state unless and until a copy of the form thereof has been filed with the Insurance Commissioner and approved by him or her except as provided in § 23-91-206.

(b) The forms must meet the following requirements:

(1) Policies must contain a detailed list and description of the legal services promised or the legal matters for which expenses are to be reimbursed and the amount of reimbursement;

(2) Policies and certificates must indicate prominently the name of the insurer and the full address of its principal place of business;

(3) Certificates issued under group policies may summarize the terms of the master contract but must contain a full and clear statement of the benefits provided; and

(4)(A) No policy shall unreasonably restrict the right of any person covered by legal insurance to seek performance of legal services by the attorney of his or her choice in a matter covered by the policy.

(B)(i) If the policy contemplates the use of a prearranged panel of attorneys to render the legal services covered under the policy, the commissioner shall not approve that policy unless the policy also authorizes payment for covered services rendered by an insured's attorney who is not a member of the panel.

(ii) Payments to attorneys who are not members of the panel shall be reasonably equivalent to the cost incurred by the insurer when similar services are rendered by attorneys who are members of any panel.

(c) The commissioner may disapprove a form if the commissioner finds that it:

(1) Does not meet the requirements of subsection (b) of this section;

(2) Is unfair, unfairly discriminatory, misleading, obscure, or encourages misrepresentation or misunderstanding of the contract, including cases in which the form:

(A) Provides coverage or benefits that are too restricted to achieve the purposes of which the policy is designed;

(B) Fails to attain a reasonable degree of readability, simplicity, and conciseness; or

(C) Is misleading, deceptive, or obscure because of its physical aspects such as format, typography, style, color, material, or organization;

(3) Provides coverage or benefits or contains other provisions that would endanger the solidity of the insurer; or

(4) Is contrary to law.

History. Acts 1977, No. 368, § 5;
A.S.A. 1947, § 66-5405.

23-91-211. Regulation of rates.

(a) Rate filings shall be subject to the following procedures and requirements:

(1) Every insurer shall file with the Insurance Commissioner every manual of classifications, rules, and rates, every rating plan, and every modification of any of the foregoing which it proposes to use;

(2) Every filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing and the commissioner does not have sufficient information to determine whether the filing meets the require-

ments of this subchapter, the commissioner may require the insurer to furnish the information upon which it supports the filing. Any filing may be supported by:

(A) The experience or judgment of the insurer or rating organization making the filing;

(B) The experience of other insurers or rating organizations; and

(C) Any other factor which the insurer or rating organization deems relevant; and

(3) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(b) The rates must meet the following requirements:

(1) They must be established and justified in accordance with generally accepted insurance principles, including, but not limited to, the experience or judgment of the insurer making the rate filing or actuarial computations; and

(2) They may not be excessive, inadequate, or unfairly discriminatory in relation to the benefits offered. Rates are not unfairly discriminatory because they are averaged broadly among persons insured under group, franchise, or blanket policies.

(c) By written order, the commissioner may suspend or modify the requirement of filing for any risk or group or class of risk, the rates for which cannot practically be filed before they are used.

History. Acts 1977, No. 368, § 5;
A.S.A. 1947, § 66-5405.

23-91-212. Approval of forms and rates.

(a) If the Insurance Commissioner determines that any form reviewed under § 23-91-210 or any schedule of rates reviewed under § 23-91-211 complies with the requirements of those sections, the commissioner shall approve the filing within thirty (30) days, which may be extended for an additional thirty (30) days by notice in writing to the person making the filing prior to the expiration of the first thirty (30) days.

(b) If the commissioner disapproves a filing, the commissioner shall notify the person making it in writing specifying therein the reasons for his or her disapproval.

(c) A hearing shall be granted within thirty (30) days after a request in writing by any person aggrieved by the decision of the commissioner.

(d) If the commissioner does not disapprove a form or schedule of rates within thirty (30) days of the filing or an extension thereof as provided in subsection (a) of this section, it shall be deemed approved.

(e) After notice and hearing, the commissioner may disapprove any rate that has been previously approved or deemed approved.

(f) The commissioner may require the submission of additional relevant information reasonably necessary to determine whether to approve or disapprove a filing made pursuant to § 23-91-210 or § 23-91-211.

History. Acts 1977, No. 368, § 5;
A.S.A. 1947, § 66-5405.

23-91-213. Segregated accounts required — Exception.

Except for employee welfare benefit plans regulated by the Employee Retirement Income Security Act of 1974, persons transacting the business of legal insurance, and any other business than insurance shall transact legal insurance wholly within a segregated account in accordance with the following requirements:

(1) The segregated account must satisfy the financial requirements for issuance of a certificate of authority;

(2)(A)(i) Except under subdivisions (6) and (7) of this section, the income and assets attributable to a segregated account shall always remain identifiable with the account.

(ii) However, unless the Insurance Commissioner so orders, the assets need not be kept physically separate from other assets of the person.

(B) The income, gains, and losses, whether or not realized, from assets attributable to a segregated account shall be credited to or charged against the account without regard to other income, gains, or losses of the person;

(3) Except under subdivision (4) of this section, assets attributable to a segregated account shall not be chargeable with any liabilities arising out of any other business of the person, nor shall any assets not attributable to the account be chargeable with any liabilities arising out of it;

(4) Claims remaining unpaid after completion of any liquidation under the applicable and relevant provisions of §§ 23-68-111 and 23-68-112 shall have liens on the interests of shareholders, if any, in all of the person's assets that are not liquidated. The segregated account shall be deemed an insurer within the meaning of § 23-68-102;

(5) Assets allocated to segregated accounts are the property of the person, which is not and shall not hold itself out to be a trustee of the assets;

(6) A person may allocate a portion or part of a particular asset to the segregated account; and

(7) By an identifiable act, the person may transfer assets to or from the segregated account if:

(A) The terms are fair and reasonable; and

(B) The books, accounts, and records of each party are maintained so as to clearly and accurately disclose the precise nature and details of the transaction.

History. Acts 1977, No. 368, § 6; Income Security Act of 1974, referred to in
A.S.A. 1947, § 66-5406. this section, is primarily codified as 29

U.S. Code. The Employee Retirement U.S.C. § 1001 et seq.

23-91-214. Management and exclusive agency contracts.

(a) No insurer may enter into any exclusive agency contract or management contract unless the contract is first filed with the Insurance Commissioner and not disapproved under this section within thirty (30) days after filing or after such reasonable extended period as the commissioner may specify by notice given within the thirty (30) days.

(b) The commissioner shall disapprove a contract under subsection (a) of this section if the commissioner finds that:

(1) It subjects the insurer to excessive charges;

(2) The contract extends for an unreasonable period of time;

(3) The contract does not contain fair and adequate standards of performance;

(4) The persons empowered under the contract to manage the insurer are not sufficiently trustworthy, competent, experienced, and free from conflict of interest to manage the insurer with due regard for the interests of its insureds, creditors, or the public; or

(5) The contract contains provisions which impair the interests of the insurer's insureds or creditors of the public in this state.

History. Acts 1977, No. 368, § 7;
A.S.A. 1947, § 66-5407.

23-91-215. Annual report.

Each insurer shall annually, on or before March 1, file with the Insurance Commissioner a report verified by at least two (2) principal officers. The report shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the insurer's legal insurance business including:

(A) Its balance sheet; and

(B) Its receipts and disbursements for the preceding year;

(2) Any material changes in the information submitted pursuant to § 23-91-209;

(3) Such information about the number of persons protected and terminated as may be prescribed by the commissioner; and

(4) Such other information relating to the performance of the insurer as is necessary to enable the commissioner to carry out his or her duties under this subchapter.

History. Acts 1977, No. 368, § 8;
A.S.A. 1947, § 66-5408; Acts 1987, No. 456, § 27.

23-91-216. Reserves required.

An insurer must maintain the reserves necessary for the sound operation of the business including unearned premium reserves, and

the amount and manner of calculating these reserves shall be determined by the provisions of § 23-63-601 et seq.

History. Acts 1977, No. 368, § 9; A.S.A. 1947, § 66-5409; Acts 2001, No. 1566, § 20.

Amendments. The 2001 amendment added “and the amount ... §§ 23-63-601 et seq.” after “reserves”; and deleted (b).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-91-217. Investment of assets.

The investable funds generated through the transaction of the business of legal insurance by persons who are not licensed to transact other lines of insurance shall be invested in securities or other investments permitted by the laws of this state for the investment of assets of life insurers or in such other securities or investments as the Insurance Commissioner shall permit.

History. Acts 1977, No. 368, § 10; A.S.A. 1947, § 66-5410.

23-91-218. Trade practices.

The Trade Practices Act, § 23-66-201 et seq., and §§ 23-66-301 — 23-66-314 and 23-66-316 apply to persons transacting the business of legal insurance except as is inconsistent with this subchapter.

History. Acts 1977, No. 368, § 11; A.S.A. 1947, § 66-5411.

23-91-219. Licensing of agents.

(a) Agents shall be licensed in accordance with such provisions as the Insurance Commissioner in his or her discretion deems applicable under §§ 23-64-101 et seq., 23-64-201 — 23-64-205, 23-64-207, 23-64-209, 23-64-210, 23-64-214 — 23-64-221, 23-64-223 — 23-64-227, and the Producer Licensing Model Act, 23-64-501 et seq.

(b) The commissioner may develop and administer to license applicants such examination as he or she deems appropriate.

History. Acts 1977, No. 368, § 12; A.S.A. 1947, § 66-5412; Acts 1987, No. 619, § 2; 2001, No. 580, § 23.

substituted “§§ 23-64-101 et seq. ... 23-64-501 et seq.” for “§§ 23-64-101 — 23-64-103 and 23-64-201 — 23-64-227” in (a).

Amendments. The 2001 amendment

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Insurance
Law, 24 UALR L.J. 577.

23-91-220. Examination of insurer's affairs.

(a) The Insurance Commissioner shall make an examination of the affairs of any insurer as often as the commissioner deems it necessary for the protection of the interests of the people of this state.

(b) The following sections shall apply to examinations conducted pursuant to subsection (a) of this section:

- (1) Examination of managers and promoters, § 23-61-202;
- (2) Examiners, § 23-61-203;
- (3) Conduct of examination — Records — Correction of accounts — Appraisals, § 23-61-204;
- (4) Examination reports, § 23-61-205; and
- (5) Examination expense, § 23-61-206.

History. Acts 1977, No. 368, § 13;
A.S.A. 1947, § 66-5413.

23-91-221. Professional ethics.

The Insurance Commissioner shall report to the Attorney General for reference to the Arkansas Supreme Court any information which the commissioner considers to be of substance and of possible violation of the Model Rules of Professional Conduct as adopted by the Arkansas Supreme Court.

History. Acts 1977, No. 368, § 14;
A.S.A. 1947, § 66-5414.

23-91-222. Revocation of certificate of authority.

The Insurance Commissioner may suspend, revoke, or refuse to renew any certificate of authority issued to a person transacting the business of legal insurance under this subchapter pursuant to and consistent with the relevant provisions of §§ 23-63-212 — 23-63-215.

History. Acts 1977, No. 368, § 15;
A.S.A. 1947, § 66-5415.

23-91-223. Rehabilitation and liquidation.

The relevant provisions of §§ 23-68-101 — 23-68-113 and 23-68-115 — 23-68-132 shall apply to a person transacting the business of legal insurance under the provisions of this subchapter.

History. Acts 1977, No. 368, § 16;
A.S.A. 1947, § 66-5416.

23-91-224. Authority to promulgate rules.

The Insurance Commissioner may promulgate such reasonable rules or regulations as are necessary or proper to carry out the provisions of this subchapter.

History. Acts 1977, No. 368, § 17;
A.S.A. 1947, § 66-5417.

23-91-225. Fees.

Every person subject to this subchapter shall pay to the Insurance Commissioner the fees required by the applicable and relevant provisions of § 23-61-401.

History. Acts 1977, No. 368, § 18;
A.S.A. 1947, § 66-5418.

23-91-226. Taxation.

(a) Taxation on legal insurance premiums shall be fixed at the rate of two and one-half percent (2.5%) of direct written premium income in Arkansas, after deduction for dividends paid to policyholders and returned premiums, and shall be due and payable in estimated quarterly installments and reconciled annually at the time of filing the insurer's annual report as required by § 23-91-215.

(b) The Insurance Commissioner shall deposit all premium taxes collected under this section in the State Treasury as general revenues.

History. Acts 1977, No. 368, § 19;
A.S.A. 1947, § 66-5419; Acts 1987, No. 456, § 28; 1987, No. 1033, § 4.

Publisher's Notes. Acts 1987, No. 1033, § 10, provided: "The provisions of this Act as to premium taxes shall apply to

all premiums which are collected in calendar year 1987 upon which the premium tax is reported and paid in 1988, and the provisions of this Act as to income taxes shall apply to all income years beginning on or after January 1, 1987."

23-91-227. Public documents.

All applications, filings, and reports required under this subchapter shall be treated as public documents.

History. Acts 1977, No. 368, § 20;
A.S.A. 1947, § 66-5420.

SUBCHAPTER 3 — LONG-TERM CARE LIABILITY INSURANCE

SECTION.

- 23-91-301. Purpose.
- 23-91-302. Governing board.
- 23-91-303. Plan for coverage — Contents.
- 23-91-304. Coverages provided.
- 23-91-305. Funding.

SECTION.

- 23-91-306. Information for individuals.
- 23-91-307. No liability in creating plan.
- 23-91-308. Rules and regulations.
- 23-91-309. Termination.

Effective Dates. Acts 2001, No. 1825, § 2: Apr. 18, 2001. Emergency clause provided: "It is found and determined by the General Assembly that an emergency exists due to the unavailability of professional liability insurance for long-term care facilities; that such unavailability could jeopardize the stability of those facilities; that it is imperative to have adequate long-term care facilities within this state; and this act will provide a mechanism for helping assure the continued viability of those facilities. Therefore, an

emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-91-301. Purpose.

(a)(1) The purpose of this subchapter is to provide for the establishment of a plan for a Long-Term Care Liability Insurance Plan, if the Insurance Commissioner determines, after a hearing, that long-term care liability insurance is not reasonably available in this state.

(2) If the commissioner makes such a determination, the commissioner shall prepare a voluntary plan which will provide that insurance coverage.

(b) The plan shall provide coverage for professional liability for any long-term care providers licensed by the State of Arkansas.

(c) The plan shall provide insurance for long-term care providers, as set forth in this subchapter but shall not reduce or eliminate the liability of the long-term care providers for the matters covered by the plan other than to provide insurance therefor.

History. Acts 2001, No. 1825, § 1.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-91-302. Governing board.

(a) There is created a governing board of five (5) members to be appointed by the Governor, which shall meet as necessary to review and prescribe operating procedures and rules to implement any plan promulgated pursuant to this subchapter. The governing board shall be composed of the following members:

(1) Two (2) representatives from insurers licensed to operate in this state;

(2) One (1) representative who is a licensed insurance agent in this state;

(3) One (1) consumer representative; and

(4) One (1) representative from the long-term care industry.

(b) In addition, there shall be four (4) ex officio members of the governing board, who shall be:

- (1) The Insurance Commissioner;
- (2) The Director of the Department of Human Services;
- (3) A member of the Senate appointed by the President Pro Tempore of the Senate; and
- (4) A member of the House of Representatives appointed by the Speaker of the House of Representatives.

History. Acts 2001, No. 1825, § 1.

23-91-303. Plan for coverage — Contents.

- (a) The plan shall:
 - (1) Give consideration to:
 - (A) The need for adequate and readily accessible coverage;
 - (B) Optional methods of improving the market affected;
 - (C) The inherent limitations of the insurance mechanism;
 - (D) The need for reasonable underwriting standards; and
 - (E) The requirement and immediate implementation of reasonable loss prevention measures;
 - (2) Establish procedures for participants to have their grievances reviewed by the governing board; and
 - (3) Establish a rating plan which shall be actuarially sound.
- (b) On behalf of its participants, the plan may:
 - (1) Issue policies of insurance to participants;
 - (2) Underwrite, adjust, and pay losses on insurance issued by the plan;
 - (3) Appoint a service company or companies to perform the functions enumerated in this subsection, including the functions of a plan administrator;
 - (4) Obtain reinsurance for any part or all of its risks; and
 - (5) Obtain excess-of-loss coverages.
- (c) The plan shall provide for:
 - (1) The method of classifying risks, including appropriate consideration of quality assurance procedures in effect, such as gathering and maintaining reports and statistics concerning compliance therewith, voluntary and permissive use of monitoring devices by the facilities, and other procedures;
 - (2) The making, filing, and approval authority of rates which are not excessive, inadequate, or unfairly discriminatory and policy forms applicable to the risks insured by the plan;
 - (3) The adjusting and processing of claims;
 - (4) The commission rates to be paid to agents or brokers for coverages written by the plan;
 - (5) Any other insurance or investment functions that are necessary for the purpose of providing adequate and readily accessible coverage;
 - (6) The method of operation of the plan;
 - (7) The examination of the plan, including the activities of the plan administrator;

(8) The establishment of procedures to conduct necessary analyses at reasonable intervals to appropriately evaluate the Arkansas long-term care liability insurance market;

(9) The establishment of procedures and guidelines to prevent a company from transferring and causing to be transferred substantially all of its long-term care liability exposure to the plan, unless the Insurance Commissioner finds after notice and hearing that it is in the best interests of Arkansas citizens to allow such a practice; and

(10) Other matters as may be necessary and proper for the execution of the board's powers, duties, and obligations under this subchapter.

History. Acts 2001, No. 1825, § 1.

23-91-304. Coverages provided.

(a) The plan shall provide insurance for professional liability for long-term care providers for actual damages and noneconomic compensatory damages.

(b) The plan shall not provide coverage for punitive damages nor shall it cover such other standard exceptions in liability contracts.

(c) The risks assumed by the plan shall include the obligation to pay all actual damages, noneconomic compensatory damages, and costs of defense.

(d) The plan shall provide insurance on an occurrence basis, with limitations of one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) annual aggregate, with such deductibles as shall be specified in the individual coverage contract.

(e) The plan administrator shall have the sole and exclusive right to defend all covered claims and to make all determinations as to settlement of covered claims.

History. Acts 2001, No. 1825, § 1.

23-91-305. Funding.

(a) As a precondition to establishing the plan, the plan shall be capitalized from independent sources, including participants, in an amount sufficient to fund the initial consulting, actuarial, legal, and other professional expenses necessary to establish the plan.

(b) The plan shall be established and maintained through a periodic premium payment by the participants in an amount determined by the governing board of the plan to be sufficient to render the plan self-supporting and actuarially sound to fund the plan risks assumed by the plan and to fund expenses of the plan.

(c)(1) Provision shall be made for adjustment of contributions for participants based on experience-rating adjustments for participants based on their loss experience.

(2) The information provided to the plan for the purpose of making this determination shall be submitted in the form provided by the Insurance Commissioner. The form shall be confidential and not dis-

coverable or admissible at trial, and no waiver of objection or privilege shall be implied from the submission, except that any document or fact contained in, or referred to, in such a submission which is otherwise discoverable or admissible under the prevailing rules of evidence shall continue to be discoverable or admissible notwithstanding the previous provisions of this subsection.

History. Acts 2001, No. 1825, § 1.

23-91-306. Information for individuals.

The plan or its agent shall provide to any person seeking the insurance available in each plan information about the services prescribed in the plan, including full information on the requirements and procedures for participation in the plan.

History. Acts 2001, No. 1825, § 1.

23-91-307. No liability in creating plan.

There shall be no liability on the part of and no cause of action shall arise against the Insurance Commissioner, the commissioner's representatives, or any plan, its participants, or its employees for any good faith action taken by them in the performance of their powers and duties in creating any plan pursuant to this subchapter.

History. Acts 2001, No. 1825, § 1.

23-91-308. Rules and regulations.

The Insurance Commissioner shall have the authority to promulgate rules and regulations consistent with this subchapter and necessary to effectuate the purpose of this subchapter.

History. Acts 2001, No. 1825, § 1.

23-91-309. Termination.

(a) If the governing board finds after investigation that there is sufficient availability and competition in the marketplace, the governing board shall request that the Insurance Commissioner hold a public hearing to determine if it is in the best interest of Arkansas citizens to suspend operation of or dissolve the plan. If after the hearing the commissioner determines that there is sufficient availability and competition in the voluntary long-term care liability insurance market and it is in the best interest of Arkansas citizens, the commissioner may:

- (1) Suspend operations of the plan;
- (2) Suspend policy issuance by the plan; or
- (3) Dissolve the plan.

(b) If the commissioner determines that funds remain in the plan after termination and all claims have been paid, the commissioner shall

apportion the remaining funds among the participants in an equitable manner.

History. Acts 2001, No. 1825, § 1.

CHAPTER 92

MULTIPLE EMPLOYER TRUSTS AND SELF-INSURED PLANS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. THIRD PARTY ADMINISTRATORS.
3. ARKANSAS EMPLOYEE LEASING ACT. [REPEALED.]
4. ARKANSAS PROFESSIONAL EMPLOYER ORGANIZATION RECOGNITION AND LICENSING ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-92-101. Registration or licensure required.

Effective Dates. Acts 1985, No. 795, § 4: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that all health care plans should be registered with the Insurance Commissioner; that such is not now provided by law and that this Act is immediately necessary to so provide. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that the term disability insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed

by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 516, § 7: Mar. 18, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that unauthorized insurance products are a danger to Arkansas insurance consumers; that unauthorized persons and entities have collected premiums from Arkansas insurance consumers but have not paid claims; that the sale of unauthorized insurance products has resulted in hundreds of thousands of dollars in unpaid medical bills in Arkansas; that Arkansas insurance consumers should be able to rely on their insurance producers to sell them products authorized to be sold in Arkansas; and that unauthorized products continue to be sold in Arkansas; and that these changes are immediately necessary to enable the State Insurance Department to take immediate action against unauthorized persons and entities and to require insurance producers to ensure that the products they sell are authorized. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor;

(2) However, if the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the

bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date that last house overrides the veto."

23-92-101. Registration or licensure required.

(a) "Multiple employer welfare arrangement" has the same meaning as under 29 U.S.C. § 1002(40), as it existed on January 1, 2003.

(b)(1) Every fully insured multiple employer trust and fully insured multiple employer welfare arrangement that intends to provide accident and health benefits to citizens of this state shall register with the Insurance Commissioner prior to soliciting or enrolling members or prior to conducting any other business activity in Arkansas.

(2)(A) Each fully insured multiple employer trust and fully insured multiple employer welfare arrangement under this section that is conducting any business activity in Arkansas as of March 18, 2003, shall register with the commissioner no later than July 1, 2003.

(B) After the initial registration, each fully insured multiple employer trust and fully insured multiple employer welfare arrangement under this section that conducts business in Arkansas shall thereafter register with the commissioner no later than January 1 of each year for as long as it continues to do business in Arkansas.

(c)(1) A multiple employer trust or multiple employer welfare arrangement that is not fully insured must obtain a certificate of authority pursuant to § 23-63-201 et seq. before doing business in Arkansas.

(2) In order to remain licensed, a multiple employer trust or multiple employer welfare arrangement that is not fully insured must comply with all Arkansas laws that are not inconsistent with the Employee Retirement Income Security Act of 1974, as it existed on January 1, 2003.

History. Acts 1985, No. 795, §§ 1, 2; A.S.A. 1947, §§ 66-6001, 66-6002; Acts 2001, No. 1603, § 44; 2003, No. 516, § 6.

Amendments. The 2001 amendment, in (a), substituted "plan that intends" for "plan which intends," "accident and health" for "disability," and "the Insurance Commissioner" for "he."

The 2003 amendment inserted "or licen-

sure" in the section catchline; added present (a); redesignated former (a) as present (b) and rewrote it; deleted former (b); and added (c).

U.S. Code. The Employee Retirement Income Security Act of 1974, referred to in this section, is codified as 29 U.S.C.S. § 1001 et seq.

SUBCHAPTER 2 — THIRD PARTY ADMINISTRATORS

SECTION.

23-92-201. Definition.

23-92-202. Written agreement required.

23-92-203. Certificate of registration.

23-92-204. Bond required — Exceptions.

SECTION.

23-92-205. Payments to administrator — Presumptions.

23-92-206. Collection of premiums, etc. — Deposits and withdrawals.

SECTION.

23-92-207. Books and records.

23-92-208. Compensation.

Effective Dates. Acts 1985, No. 796, § 11: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that should be registered with the Insurance Commissioner; that such is not now provided by law and that this Act is immediately necessary to so provide. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 833, § 3: Apr. 8, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly that the third party administrators operating pursuant to Administrative Services agreement and assumes no financial responsibility, should not be required to post a bond with the State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation

of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that the term disability insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-92-201. Definition.

As used in this subchapter, "third party administrator" means any person, firm, or partnership that collects or charges premiums from which or adjusts or settles claims on residents of this state in connection with life or accident and health coverage provided by a self-insured plan or a multiple employer trust. "Third party administrator" includes administrative-services-only contracts offered by insurance companies but does not include the following persons:

- (1) An employer, for its employees or for the employees of a subsidiary or affiliated corporation of the employer;
- (2) A union, for its members;
- (3) An insurer licensed to do business in this state;
- (4) A creditor, for its debtors, regarding insurance covering a debt between them;
- (5) A credit card-issuing company that advances for or collects premiums or charges from its credit card holders as long as that company does not adjust or settle claims;
- (6) An individual who adjusts or settles claims in the normal course of his or her practice or employment and who does not collect charges or premiums in connection with life or accident and health coverage; or

(7) An agency licensed by the Insurance Commissioner and performing duties pursuant to an agency contract with an insurer authorized to do business in this state.

History. Acts 1985, No. 796, § 1; A.S.A. 1947, § 66-6003; Acts 2001, No. 1603, § 45.

Amendments. The 2001 amendment substituted "accident and health" for "disability" in the introductory language and (6); and made gender neutral changes and minor stylistic changes throughout.

23-92-202. Written agreement required.

A third party administrator may act in that capacity only if he or she has a written agreement with a self-insured plan or trust. The agreement shall be maintained by the administrator and subject to review by the Insurance Commissioner.

History. Acts 1985, No. 796, § 2; A.S.A. 1947, § 66-6004.

23-92-203. Certificate of registration.

(a) No person shall act or hold himself or herself out as an administrator unless he or she obtains a certificate of registration from the Insurance Commissioner.

(b) The certificate may be obtained by submitting an application on a form prescribed by the commissioner, paying a twenty-five dollar (\$25.00) filing fee, and placing with the commissioner a surety bond as described in § 23-92-204.

(c) Each application shall have attached to it a list of all self-insured plans and trusts that have entered into service contracts with the applicant for administrative services. Every administrator shall update the list whenever changes occur.

(d) The certificate shall be issued by the commissioner unless, after a hearing, the commissioner determines that the applicant is:

- (1) Not competent;
- (2) Not trustworthy;
- (3) Not financially responsible; or
- (4) A convicted felon.

(e) Each certificate of registration shall be valid for the year issued and shall be renewed each year thereafter by submitting a twenty-five dollar (\$25.00) annual fee.

(f) After conducting a hearing and finding that an administrator has violated any of the requirements of this subchapter or fails to meet the requirements for the issuance of a certificate, the commissioner may revoke or suspend the certificate of registration.

History. Acts 1985, No. 796, §§ 7, 9; A.S.A. 1947, §§ 66-6009, 66-6011.

23-92-204. Bond required — Exceptions.

(a) Every applicant for a certificate of registration shall file with the application, and shall thereafter maintain in force while operating under the registration, a bond in favor of the people of the State of Arkansas executed by an authorized insurer. The bond shall have a total aggregate liability of twenty-five thousand dollars (\$25,000). The bond shall be conditioned upon the full accounting and due payment to the person entitled thereto of any funds coming into the possession of the administrator.

(b) The bond shall remain in force until released by the Insurance Commissioner, or until cancelled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond on thirty (30) days' advance written notice to both the administrator and the commissioner.

(c) Any applicant for a certificate of registration or for a renewal of a certificate shall not be required to post a bond pursuant to subsection (a) of this section if the applicant operates only pursuant to an administrative services agreement and does not collect, receive, or remit funds on the behalf of insureds.

History. Acts 1985, No. 796, § 8;
A.S.A. 1947, § 66-6010; Acts 1987, No.
833, § 1.

23-92-205. Payments to administrator — Presumptions.

(a) When a self-insured plan or a trust utilizes the services of an administrator, the payment of premiums or charges to the administrator by the covered individual are presumed to have been received by the self-insured plan or trust.

(b) The payment of claims or the return of premiums to the administrator are not presumed to have been paid to the covered individual or claimant until the payment is received by the covered individual or claimant.

History. Acts 1985, No. 796, § 3;
A.S.A. 1947, § 66-6005.

23-92-206. Collection of premiums, etc. — Deposits and withdrawals.

(a) An administrator is a fiduciary in collecting or returning premiums or charges for the party with whom it has a written agreement for administrative services.

(b) Funds collected by the administrator shall be immediately remitted to the person entitled to the funds or deposited in a separately identifiable bank account which shall be established and maintained by the administrator.

(c) The administrator shall maintain records clearly showing the deposits and withdrawals from the separately identifiable bank account

for each party with whom it has a written agreement for administrative services. The administrator shall furnish to the party, upon his or her request, copies of the required records.

(d) Subject to the written agreement required by § 23-92-202, withdrawals from the bank account shall only be made for the following:

- (1) Remittance to a plan or trust entitled to the funds;
- (2) Deposit in an account maintained in the name of the party with whom the administrator has a written agreement;
- (3) Transfer to and deposit in a claims-paying account;
- (4) Payment to the administrator for its commission, fees, or charges;
- (5) Remittance of return premiums to the person entitled to the funds;

(6) Payment of funds for premiums of reinsurance or pursuant to the provisions of any other contract entered into by the trust or plan.

History. Acts 1985, No. 796, § 5;
A.S.A. 1947, § 66-6007.

23-92-207. Books and records.

(a) Every administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in § 23-92-202 and five (5) years thereafter adequate books and records of all transactions between it, self-insured plans, trusts, and covered individuals. These books and records shall be maintained in accordance with prudent standards of insurance recordkeeping.

(b) The Insurance Commissioner shall have access to the books and records for the purpose of examination, audit, and inspection.

(c) Any trade secrets contained therein, including, but not limited to, the identity and addresses of plans and trusts, shall be confidential, except that the commissioner may use the information in any proceedings instituted against the administrator.

History. Acts 1985, No. 796, § 4;
A.S.A. 1947, § 66-6006.

23-92-208. Compensation.

The compensation for an administrator may be based on:

- (1) Premiums or charges collected;
- (2) The number of claims paid or processed, or
- (3) Some other fair and equitable basis provided by the contract.

History. Acts 1985, No. 796, § 6;
A.S.A. 1947, § 66-6008.

SUBCHAPTER 3 — ARKANSAS EMPLOYEE LEASING ACT

SECTION.

23-92-301 — 23-92-316. [Repealed.]

23-92-301 — 23-92-316. [Repealed.]

Publisher's Notes. This subchapter was repealed by Act 2003, No. 1750, § 9. The subchapter was derived from the following sources:

§ 23-92-301, Acts 1991, No. 1143, § 3.
 § 23-92-302, Acts 1991, No. 1143, § 3.
 § 23-92-303, Acts 1991, No. 1143, § 3.
 § 23-92-304, Acts 1991, No. 1143, § 3;
 1993, No. 410, § 4.
 § 23-92-305, Acts 1991, No. 1143, § 3.
 § 23-92-306, Acts 1991, No. 1143, § 3.
 § 23-92-307, Acts 1991, No. 1143, § 3;
 1997, No. 1000, § 11; 1999, No. 881, § 17.
 § 23-92-308, Acts 1991, No. 1143, § 3.

§ 23-92-309, Acts 1991, No. 1143, § 3;
 1993, No. 901, § 47.

§ 23-92-310, Acts 1991, No. 1143, § 3.

§ 23-92-311, Acts 1991, No. 1143, § 3;
 1999, No. 881, § 18.

§ 23-92-312, Acts 1991, No. 1143, § 3.

§ 23-92-313, Acts 1991, No. 1143, § 3.

§ 23-92-314, Acts 1991, No. 1143, § 3.

§ 23-92-315, Acts 1991, No. 1143, § 3.

§ 23-92-316, Acts 1995, No. 1308, § 1;
 1999, No. 1501, § 1.

Acts 2003, No. 1750, did not contain a
 Section 2.

SUBCHAPTER 4 — ARKANSAS PROFESSIONAL EMPLOYER ORGANIZATION RECOGNITION AND LICENSING ACT

SECTION.

23-92-401. Title.
 23-92-402. Definitions.
 23-92-403. Relationship to other laws.
 23-92-404. Licensing and renewal.
 23-92-405. Controlling person.
 23-92-406. Changes in control.
 23-92-407. Fees.
 23-92-408. Financial assurance required.
 23-92-409. Relationships defined.
 23-92-410. Issuance, refusal, suspension,
 or revocation of license —
 Grounds and procedure.
 23-92-411. Deceptive practices.
 23-92-412. Penalties.

SECTION.

23-92-413. Nondisclosure of proprietary
 information.
 23-92-414. Employer service assurance
 organization affidavit.
 23-92-415. Licensing of employer service
 assurance organizations.
 23-92-416. Employer service assurance
 organizations — Prohib-
 ited activities.
 23-92-417. Employer service assurance
 organization — Permitted
 activities.
 23-92-418. Filing of information.
 23-92-419. Rules and regulations.

23-92-401. Title.

This subchapter may be cited as the “Arkansas Professional Employer Organization Recognition and Licensing Act”.

History. Acts 2003, No. 1750, § 1.

23-92-402. Definitions.

As used in this subchapter:

(1) “Client” means any person who enters into a coemployment relationship as a coemployer with a professional employer organization;

(2) “Coemployer” means a professional employer organization or a client of a professional employer organization;

(3) “Coemployment relationship” means:

(A) As between coemployers, a relationship in which the rights, duties, and obligations of an employer that arise out of an employment relationship have been allocated between coemployers under a professional employer agreement and this subchapter and which is

intended to be an ongoing relationship rather than a temporary or project-specific relationship;

(B) As between each professional employer organization and a covered employee to which a professional employer agreement applies, an employment relationship in which:

(i) The professional employer organization is entitled to enforce the rights and is obligated to perform the duties and obligations allocated to the organization by the professional employer agreement and this subchapter; and

(ii) A covered employee is entitled to enforce against the professional employer organization the duties and obligations allocated to the organization by the professional employer agreement and this subchapter; and

(C) As between each client and a covered employee to which a professional employer agreement applies, an employment relationship in which each client:

(i) Is entitled to enforce the rights allocated to the client by the agreement and this subchapter;

(ii) Is obligated to provide and perform the employer obligations allocated to the client by the agreement and this subchapter; and

(iii) Is responsible for any employer right or obligation not otherwise allocated by the agreement or this subchapter;

(4) "Commissioner" means the Insurance Commissioner;

(5) "Controlling person" means:

(A) Any natural person who directly or indirectly possesses the power to direct or cause the direction of the management or policies of any professional employer organization, including:

(i) Direct or indirect control of ten percent (10%) or more of an ownership interest bearing the right to participate in policy making for the professional employer organization; or

(ii) The general power to endorse any negotiable instrument payable to or on behalf of the professional employer organization or to cause the direction of the management or policies of any professional employee organization; and

(B) Any natural person employed, appointed, or authorized by a professional employer organization to enter into a contractual relationship with a client company on behalf of the organization;

(6)(A) "Covered employee" means an individual having a coemployment relationship with a professional employer organization and a client who has entered into a professional employer agreement with respect to the employee.

(B) "Covered employee" includes the client's officers, directors, shareholders, partners, and managers to the extent that those persons act as operational managers or perform services for the client;

(7) "Department" means the State Insurance Department;

(8) "Employer service assurance organization" means an organization licensed under § 23-92-415;

(9) "Licensee" means a professional employer organization licensed under this subchapter;

(10) "Person" means any individual, partnership, corporation, limited liability company, association, or any legally recognized entity, however formed;

(11) "Professional employer agreement" means a written contract by and between a client and a professional employer organization under which the organization and the client agree to establish a coemployment relationship and which satisfies the requirements of § 23-92-409(c);

(12) "Professional employer organization" means any person engaged in the business of providing professional employer services;

(13)(A) "Professional employer organization group" means two (2) or more affiliated professional employer organizations.

(B) Two (2) or more professional employer organizations are affiliated if they have common owners having ownership interests in them of greater than fifty percent (50%);

(14) "Professional employer organization service organization affidavit" means an attestation or certification of a professional employer organization service organization and any additional information that conforms to the requirements in the rules and regulations as promulgated by the commissioner;

(15)(A) "Professional employer services" means the service of entering into a coemployment relationship under this subchapter in which at least a majority of the employees providing services to a client or to a division or work unit of a client are covered employees and in which:

(i) The arrangement is intended to be, or is, ongoing rather than temporary in nature; and

(ii) Employer responsibilities, including the right of direction and control of the employees, are shared by the professional employer organization and the recipient.

(B) "Professional employer services" does not include services performed by temporary employees or by persons determined to be independent contractors with respect to the recipient;

(16)(A) "Temporary help services" means services consisting of a person:

(i) Recruiting and hiring its own employees;

(ii) Finding other organizations that need the services of those employees;

(iii) Assigning those employees to perform work at or for the other organizations to support or supplement the other organizations' workforces or to provide assistance in special work situations, such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects; and

(iv) Customarily attempting to reassign the employees to other organizations when they finish each assignment.

(B) "Temporary help services" shall not be deemed professional employer services; and

(17)(A) "Transacting insurance" includes any of the following actions by a professional employer organization or its representatives:

- (i) Soliciting prospective clients based solely or primarily on representation of insurance cost advantages;
- (ii) Advising a prospective client regarding insurance coverage; or
- (iii) Offering for sale or selling a policy of insurance to a client or employee.

(B) "Transacting insurance" does not include any of the following actions by a professional employer organization or its representatives:

- (i) Soliciting prospective clients to enter into professional employee agreements;
- (ii) Collecting information from a prospective client related to payroll, employee benefits, employment policies, workplace safety, and other employer responsibilities and operational experience;
- (iii) Evaluating collected information to ascertain the professional employer organization's risk and cost associated with serving a prospective client's workforce;
- (iv) Informing a prospective client of the terms and conditions under which the professional employer organization will enter into a professional employer agreement; or
- (v) Performing employer responsibilities as required by this subchapter.

History. Acts 2003, No. 1750, § 1.

23-92-403. Relationship to other laws.

(a)(1) Neither this subchapter nor any professional employer agreement shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client, professional employer organization, or covered employee under the National Labor Relations Act, as it existed on January 1, 2003.

(2) This subchapter preserves all rights to which a covered employee would be entitled under a traditional employment relationship.

(b) Neither this subchapter nor any professional employer agreement shall affect, modify, or amend any state, local, or federal licensing, registration, or certification requirement applicable to any client or covered employee.

(c) A covered employee who must be licensed, registered, or certified according to law or regulation is deemed solely an employee of the client for purposes of any license, registration, or certification requirement.

(d) A professional employer organization shall not be deemed to engage in any occupation, trade, profession, or other activity that is subject to licensing, registration, or certification requirements, or is otherwise regulated by a governmental entity, solely by entering into and maintaining a coemployment relationship with a covered employee who is subject to this subchapter or to regulations promulgated under this subchapter.

(e)(1) For purposes of determination of tax credits and other economic incentives provided by Arkansas that are based on employment, covered employees are deemed employees solely of the client.

(2) A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client.

(3) Upon request by a client, each professional employer organization shall provide employment information reasonably required by an Arkansas agency or department that is necessary to support any request, claim, application, or other action by a client seeking any tax credit or economic incentive under subdivision (e)(2) of this section.

(f)(1) Applicants for licensing or a professional employer organization licensed under this subchapter authorize the Arkansas Employment Security Department, the Workers' Compensation Commission, and the State Insurance Department, or their successors, to release otherwise confidential information to the other departments or commission in this subdivision (f)(1) concerning the applicant or professional employer organization upon the written request by the requesting department or commission.

(2) The Arkansas Employment Security Department, the Workers' Compensation Commission, and the State Insurance Department shall maintain the confidentiality of information received under subdivision (f)(1) of this section unless the information is introduced into evidence at an administrative proceeding or at a civil or criminal trial arising out of a violation of this subchapter that involves the applicant, the professional employer organization, or the controlling person.

(g) Neither this subchapter nor any professional employer agreement shall affect, limit, restrict, or modify the rights or obligations of any client, professional employer organization, or covered employee with respect to:

(1) The payment of wages as required by contract or by state or federal law; and

(2) Compliance with the following:

(A) Sections 11-2-101 et seq., 11-3-101 et seq., 11-4-101 et seq., 11-5-101 et seq., 11-6-101 et seq., 11-7-201 et seq., the Arkansas Employment Security Law, § 11-10-101 et seq., and § 11-12-101 et seq.;

(B) Section 20-20-301 et seq.;

(C) Section 22-9-301 et seq., commonly referred to as the "Arkansas Prevailing Wage Law";

(D) The Arkansas Civil Rights Act of 1993, § 16-123-101 et seq.;

(E) The Public Employees' Chemical Right to Know Act, § 8-7-1001 et seq.; and

(F) Section 7-1-102 concerning voting time, § 16-31-106 concerning jury duty, and § 21-4-101 concerning leave of absence for public service.

History. Acts 2003, No. 1750, § 1. tions Act, referred to in (a)(1), is codified
U.S. Code. The National Labor Rela- as 29 U.S.C.S. § 151 et seq.

23-92-404. Licensing and renewal.

(a) Except as otherwise provided in this subchapter, no person shall provide, advertise, or otherwise hold itself out as providing professional employer services in Arkansas unless the person is licensed as a professional service organization under this subchapter.

(b)(1) Each professional employer organization required to be licensed under this subchapter shall provide the Insurance Commissioner information required by the commissioner on forms prescribed by the commissioner.

(2) The information required under subdivision (b)(1) of this section shall include the following information:

(A) The legal name of the professional employer organization and all other names under which the professional employer organization conducts business;

(B) The address of the principal place of business of the professional employer organization and the address of each office it maintains in Arkansas;

(C) The professional employer organization's taxpayer or employer identification number;

(D) A list by jurisdiction of each name under which the professional employer organization has operated in the preceding five (5) years, including any fictitious names, alternative names, names of predecessors, and, if known, successor business entities;

(E) A statement of ownership that shall include the name and evidence of the business experience of all controlling persons;

(F) A statement of each controlling person disclosing any interest in any other professional employer organization, whether licensed or not in Arkansas, in which the controlling person has a ten percent (10%) or greater interest;

(G) A statement of management, which shall include the name and evidence of the business experience of any person who serves as president or chief executive officer or otherwise has the authority to act as senior executive officer of the professional employer organization; and

(H)(i) A financial statement setting forth the financial condition of the professional employer organization as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the commissioner.

(ii) The financial statement under subdivision (b)(1)(H)(i) of this section shall be prepared in accordance with generally accepted accounting principles, and unless the professional employer organization provides financial assurance as set forth in § 23-92-408(a)(2), the financial statement shall be audited by an independent certified public accountant licensed to practice in Arkansas or the state of domicile of the professional employer organization.

(iii) A professional employer organization group may submit combined or consolidated financial statements to meet the requirements of this section.

(c)(1) Each professional employer organization operating within this state as of July 16, 2003, shall complete its initial licensing no later than December 31, 2003.

(2) Each professional employer organization not operating within Arkansas as of July 16, 2003, shall complete its initial licensing before beginning operations within this state.

(d)(1) No later than the biennial anniversary date of its licensing, each licensee shall renew its licensing by notifying the commissioner of any changes in the information provided in the licensee's most recent licensing or renewal and by paying a renewal fee.

(2) If a licensee under this subchapter fails to renew its license at the time of renewal and pay the renewal fee, its license shall become delinquent.

(3)(A) Licensees under this subchapter shall have thirty (30) days after the renewal date in which to renew their licenses and pay in addition to the renewal fee under subdivision (d)(1) of this section a late fee not to exceed one thousand dollars (\$1,000).

(B) If payment is not received within the thirty-day time period under subdivision (d)(3)(A) of this section:

(i) The license shall automatically become void without further action by the commissioner; and

(ii)(a) The commissioner shall enter a temporary order compelling the professional employer organization to cease and desist from any professional employer services in Arkansas.

(b) The order under subdivision (d)(3)(B)(ii)(a) of this section shall provide for an opportunity for the professional employer organization to request a hearing.

(c) If the professional employer organization does not request a hearing within thirty (30) days after the entry of the order or if the commissioner finds after a hearing that the professional employer organization's license should not be renewed, the order entered under subdivision (d)(3)(B)(ii)(a) of this section shall become permanent.

(d) The commissioner shall provide a copy of the order entered under subdivision (d)(3)(B)(ii)(a) of this section to the Workers' Compensation Commission and the Arkansas Employment Security Department or their successors.

(e)(1) A professional employer organization group may satisfy any reporting and financial requirements of this subchapter on a consolidated basis.

(2) As a condition of licensing as a professional employer organization group, each affiliate of the group shall guarantee payment of all financial obligations with respect to wages, employment taxes, and employee benefits of each affiliate of the group.

(f)(1) A professional employer organization is exempt from the licensing requirements contained in subsections (a)-(e) of this section and

§§ 23-92-405, 23-92-406, and 23-92-408 if the professional employer organization:

(A) Submits a properly executed request for exemption on a form provided by the State Insurance Department;

(B) Is domiciled outside of Arkansas and is licensed or registered as a professional employer organization in another state that has requirements the same or greater than this subchapter;

(C) Does not maintain an office in this state or solicit in any manner clients located or domiciled within this state; and

(D) Has one hundred (100) or fewer covered employees employed or domiciled in Arkansas.

(2) A professional employer organization's exemption from the licensing requirements under this subchapter shall be valid for two (2) years, subject to renewal, for as long as the professional employer organization:

(A) Continues to qualify for the exemption; and

(B) On or before the biennial anniversary date of the original grant of exemption, requests the exemption to continue.

(g) The commissioner shall maintain a list of professional employer organizations licensed or exempted under this subchapter.

(h) The commissioner may prescribe forms necessary to promote the efficient administration of this section.

(i) The commissioner shall reject an application for a license or for an exemption from license if the commissioner finds that:

(1) Any controlling person named in the license or exemption application is not of good moral character, business integrity, or financial responsibility; or

(2) The controlling person has violated a provision of this subchapter.

(j) A person engaged in the business of providing professional employer services shall be subject to licensing under this subchapter regardless of its use of the name "professional employer organization", "PEO", "staff leasing company", "licensed staff leasing company", "employee leasing company", or any other name.

History. Acts 2003, No. 1750, § 1.

23-92-405. Controlling person.

(a) Each controlling person shall provide information and certifications necessary for the Insurance Commissioner to determine that the person is of good moral character and:

(1) Is at least eighteen (18) years of age; and

(2) Has the education, managerial, or business experience to successfully act as the controlling person of a professional employer organization.

(b)(1) As used in this subchapter, "good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for state and federal laws.

(2) The commissioner may conduct a thorough background investigation of the individual's good moral character, as the commissioner may deem necessary.

(c) The commissioner may prohibit a person found to qualify as a controlling person under subsection (a) of this section from exercising control over the professional employer organization if the commissioner subsequently finds that the person no longer qualifies under subsection (a) of this section.

(d) A controlling person may be removed or suspended from control for a definite period if he or she:

(1) Is indicted as the subject of a criminal investigation or is found guilty of, or pleads guilty or nolo contendere to:

(A) Bribery, fraud, or willful misrepresentation in obtaining, attempting to obtain, or renewing a license;

(B) A crime in any jurisdiction that relates to the operation of a professional employer organization business or the ability to engage in business as a professional employer organization; or

(C) Fraud, deceit, or misconduct in the:

(i) Classification of employees for purposes of determining workers' compensation rates;

(ii) Establishment or maintenance of self-insurance, whether health insurance or workers' compensation insurance; or

(iii) Operation of a professional employer organization;

(2) Is confined in any county jail, post adjudication, or confined in any state or federal prison or mental institution;

(3) Can no longer safely be entrusted to deal with the public or in a confidential capacity, due to mental disease or deterioration;

(4) Has been previously suspended and is found guilty for a second time of any misconduct that warrants suspension;

(5) Has been previously suspended and is found guilty of a course of conduct or practice that shows the licensee is so incompetent, negligent, dishonest, or untruthful that the money, property, transactions, and rights of investors or those with whom the licensee may sustain a confidential relationship may not safely be entrusted to the licensee;

(6) Fails to inform the commissioner in writing within thirty (30) days after being found guilty of, or entering a plea of guilty or nolo contendere to, any felony;

(7) Is determined liable for civil fraud by a court in any jurisdiction; or

(8) By bribery, misrepresentation, or fraud, obtains or attempts to obtain a new license or renews or attempts to renew a license to provide professional employer organization services.

History. Acts 2003, No. 1750, § 1.

23-92-406. Changes in control.

(a)(1) A license issued to any professional employer organization under this subchapter may not be transferred or assigned.

(2) A licensee may not operate an entity subject to licensing under this subchapter under any name or at any location other than that specified in the application for the license or without having received the prior written consent of the Insurance Commissioner.

(3) The commissioner may adopt additional rules to provide for a licensee's change of name or location.

(b)(1) A person or entity that seeks to purchase or acquire control of an entity licensed under this subchapter shall first apply to the commissioner for a certificate of approval for the proposed change of ownership unless the licensed entity to be acquired is a publicly traded entity, in which event the acquiring entity shall apply to the commissioner for a certificate of approval for the proposed change of ownership at the time the licensed entity publishes public notice of the intended purchase or acquisition of control.

(2) The application under subdivision (b)(1) of this section shall contain the name and address of the proposed new owner, controlling person, and any other information required by the commissioner.

(c)(1) Any existing stockholder or partner who intends to acquire control of an existing entity that is licensed under this subchapter shall first apply to the commissioner for a certificate of approval for the proposed change of ownership.

(2) The application shall contain the name and address of any stockholder or partner who owns ten percent (10%) or more of the entity and who seeks to acquire control, and any other information required by the commissioner.

(d)(1) Before recommending that a certificate of approval be issued to an applicant that has applied under subsection (a) or (b) of this section, the commissioner may conduct an investigation of the applicant and examine the records of the entity as part of the investigation in accordance with applicable law.

(2) As a part of his or her investigation, the commissioner shall determine if there are any complaints pending against the company being purchased, the controlling person proposed to operate the purchased entity, or the proposed controlling person's existing company.

(3) The commissioner shall issue a certificate of approval only after he or she has determined that the proposed new owner possesses the financial ability, experience, and integrity to operate the entity as required by this subchapter.

(e) The commissioner shall waive the requirements of subsection (d) of this section and shall automatically approve the proposed change in ownership if:

(1) The application meets the requirements of subsection (b) or (c) of this section;

(2) The proposed new owner and the current owner are part of the same controlled entity; and

(3) No member or controlling person of the controlled entity is under investigation or has been previously denied a license by the commissioner.

(f) Any application that is submitted to the commissioner under this section shall be deemed approved if the commissioner has not approved or rejected the application and provided the applicant with the basis for a rejection within ninety (90) days after the receipt of the completed application.

History. Acts 2003, No. 1750, § 1.

23-92-407. Fees.

(a) Upon filing an initial licensing statement under this subchapter, a professional employer organization shall pay an initial licensing fee of one thousand dollars (\$1,000).

(b) Upon each biennial renewal of a licensing statement filed under this subchapter, a professional employer organization shall pay a renewal fee of one thousand dollars (\$1,000).

(c) Each professional employer organization exempt from licensing under the terms of this subchapter shall pay an exemption fee in the amount of fifty dollars (\$50.00) upon initial application for exemption and upon each biennial renewal of the exemption.

(d) Upon the filing of each request for a change in ownership or controlling person filed under this subchapter, a professional employer organization shall pay a change-in-ownership fee of five hundred dollars (\$500).

(e) By regulation, the Insurance Commissioner may increase, decrease, or eliminate any fee provided for in this section, but no fee provided for in this section shall ever exceed five thousand dollars (\$5,000).

History. Acts 2003, No. 1750, § 1.

23-92-408. Financial assurance required.

(a) Each professional employer organization shall maintain:

(1) An audited minimum net worth of at least one hundred thousand dollars (\$100,000), as reflected in the financial statements submitted to the Insurance Commissioner with the initial licensing, and annually thereafter; or

(2)(A) A bond in the amount of at least one hundred thousand dollars (\$100,000).

(B) The terms and conditions of the bond shall be approved by the commissioner.

(C) The bond shall be conditioned so that the licensee and each member, employee, shareholder, or officer of a person, firm, partnership, corporation, or association operating as an agent of the licensee shall not:

(i) Violate the provisions of this subchapter or violate rules, regulations, or orders lawfully promulgated by the commissioner under this subchapter; or

(ii) Fail to pay any wages due under any contract made by the licensee in the conduct of its business subject to this subchapter.

(D) The bond required by this section shall be a surety bond issued by a corporate surety or insurer authorized to do business in Arkansas.

(E) In lieu of a bond, the professional employer organization may deposit either:

(i) Securities with a minimum market value of at least one hundred thousand dollars (\$100,000) with an approved depository under an approved depository agreement under § 23-69-134(b)(4); or

(ii) An irrevocable letter of credit in a face amount of not less than one hundred thousand dollars (\$100,000) in a form that is acceptable to the commissioner.

(F) The bond, deposited securities, or letter of credit shall secure payment by the professional employer organization of all taxes, wages, benefits, or other entitlement due to or with respect to a covered employee if the professional employer organization does not make the payments when due.

(G) Any securities deposited under this subsection may be included for the purpose of calculation of the minimum net worth required by this subsection.

(b)(1) Within forty-five (45) days after the end of each calendar quarter, a professional employer organization shall submit to the commissioner a statement by an independent certified public accountant that all applicable state payroll taxes for covered employees located in this state have been paid on a timely basis for that quarter.

(2) The statement shall be either in the form of an examination level attestation or shall be based upon agreed-upon procedures acceptable to the commissioner.

(3) The commissioner shall issue by rule requirements for procedures referred to in subdivision (b)(2) of this section.

(c)(1) If any person is aggrieved by the misconduct of any licensee, that person may maintain an action in his or her own name upon the bond or assets of the professional employer organization in any court of competent jurisdiction in this state.

(2) All claims shall be assignable, and the assignee shall be entitled to the same remedies upon the bond of the licensee as the aggrieved person would have been entitled if the claim had not been assigned.

(3) Any assignable claim under subdivision (c)(2) of this section may be enforced in the name of the assignee.

(4) Any remedy provided by this section is in addition to any other remedy which otherwise exists.

(d) An action on the bond or other security required by this section may be maintained by the commissioner in the name of the State of Arkansas in any court of competent jurisdiction in this state for the benefit of any person or persons aggrieved by the misconduct of the licensee.

(e)(1) If any licensee fails to file a new bond with the commissioner within thirty (30) days after notice of cancellation by the surety of the

bond required by this section, the license issued to the licensee or the principal under the bond shall be deemed suspended until a new surety bond is filed with and approved by the commissioner.

(2) A person whose license is suspended under this section shall not carry on the business of a professional employer organization during the period of the suspension.

History. Acts 2003, No. 1750, § 1.

23-92-409. Relationships defined.

(a)(1) Except as specifically provided in this subchapter, the coemployment relationship between the client and the professional employer organization and between each coemployer and each covered employee shall be governed by the professional employer agreement.

(2) Neither this subchapter nor any professional employer agreement shall:

(A) Diminish, abolish, or remove rights of covered employees as to clients or obligations of clients as to a covered employee that existed before the effective date of a professional employer agreement;

(B) Terminate an employment relationship existing before the effective date of a professional employer agreement; or

(C) Create any new or additional enforcement right of a covered employee against a professional employer organization not specifically allocated to the professional employer organization in the professional employer agreement or under this subchapter.

(b) Except as specifically provided in this subchapter or in the professional employer agreement, in each coemployment relationship:

(1) The client is entitled to exercise all rights and is obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship; and

(2)(A) The professional employer organization shall be entitled to exercise only the rights and obligated to perform only the duties and responsibilities specifically required by this subchapter or by the professional employer agreement.

(B) The rights, duties, and obligations of the professional employer organization as coemployer with respect to any covered employee is limited to those rights during and obligations arising under the professional employer agreement and this subchapter during the term of coemployment by the professional employer organization of the covered employee.

(c) Each professional employer agreement shall include, at a minimum, the following:

(1)(A) The professional employer organization shall reserve a right of direction and control over the covered employees.

(B) However, the client may retain the right to exercise direction and control over covered employees as is necessary to:

(i) Conduct the client's business;

(ii) Discharge any fiduciary responsibility that it may have; or

- (iii) Comply with any applicable licensing requirements;
- (2) The professional employer organization shall:
 - (A) Pay wages and salaries to covered employees;
 - (B) Withhold, collect, report, and remit payroll-related and employment taxes; and
 - (C) To the extent the professional employer organization has assumed responsibility in the professional employer agreement, make payments for employee benefits for covered employees;
- (3) The professional employer organization shall retain the authority to hire, terminate, and discipline the covered employees unless otherwise agreed; and
- (4)(A) The responsibility to obtain workers' compensation coverage for covered employees from a carrier licensed to do business in Arkansas and otherwise in compliance with all applicable requirements shall be specifically allocated to either the client or the professional employer organization.
 - (B)(i) If the responsibility under subdivision (c)(4)(A) of this section is allocated to the professional employer organization under a professional employer agreement, the agreement shall require the professional employer organization to maintain records regarding the premium and loss experience related to workers' compensation insurance provided to covered employees under the agreement.
 - (ii) The professional employer agreement shall also provide that, if requested by the client at or after the termination of the agreement, the professional employer organization shall provide the records maintained under subdivision (c)(4)(B)(i) of this section to the client.
 - (C) If the professional employer organization or any of its controlling persons cannot provide the information requested under subdivision (c)(4)(B)(ii) of this section, any insurance carrier that provided the coverage for the covered employees shall provide it upon request of the client or the Insurance Commissioner.
- (5)(A) Upon request, during the period the client is a party to a professional employer organization arrangement and for a period of ninety (90) days after termination of a professional employer organization arrangement, a client or former client is entitled to receive records of the professional employer organization regarding payroll, workers' compensation coverage, losses and claims, and employee benefits provided under the professional employer organization arrangement.
 - (B)(i) The professional employer organization may charge a reasonable fee for the cost of reproducing the information under subdivision (c)(5)(A) of this section.
 - (ii) This section does not require the disclosure of information to a client or former client concerning another client or former client of the professional employer organization.
 - (C) Either the professional employer organization or the controlling person, to the extent the person has access to the information, shall furnish the information requested within thirty (30) days of receiving the request.

(d) With respect to each professional employer agreement entered into by a professional employer organization, each professional employer organization shall provide written notice to each covered employee affected by the agreement of the general nature of the coemployment relationship between and among the professional employer organization, the client, and any covered employee.

(e)(1) A professional employer organization shall provide to a client within fifteen (15) days of receipt of a written request a record of wages by workers' compensation class code and claims loss runs for the lesser of the prior thirty-six (36) calendar months or the period of time the professional employer agreement between the client and professional employer organization has been effective.

(2) If a professional employer organization fails to provide the information in subdivision (e)(1) of this section and if the commissioner requests no later than ninety (90) days after the termination of the policy covering the client, the insurer providing the coverage shall provide to the client within thirty (30) days the information or as much information as the insurer possesses or should possess if the insurer has complied with applicable law.

(f)(1) Either a client or a professional employer organization may sponsor retirement and welfare benefit plans for its covered employees.

(2) If limited to the employees of the professional employer organization, a welfare benefit plan offered to the covered employees of a single professional employer organization shall not be considered a multiple employer welfare arrangement or trust within the meaning of applicable law.

(3) For purposes of § 23-86-201 et seq., with respect to a health benefit plan sponsored by a professional employer organization:

(A) A professional employer organization shall be considered the employer of all of its covered employees; and

(B) All covered employees of one (1) or more clients participating in a health benefit plan sponsored by a single professional employer organization shall be considered employees of the professional employer organization.

(4) If a professional employer organization offers to its covered employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(A) Utilize a third-party administrator licensed to do business in this state;

(B) Hold all plan assets, including participant contributions, in a trust account; and

(C) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(g) Except to the extent otherwise provided in a professional employer agreement:

(1) A professional employer organization shall not be liable for the acts, errors, or omissions of a client or of any covered employee when the covered employee is acting under the direction and control of a client;

(2) A client shall not be liable for the acts, errors, or omissions of a professional employer organization or of any covered employee of the client and a professional employer organization when the covered employee is acting under the direction and control of the professional employer organization;

(3) This subsection does not limit any contractual liability or obligation specifically provided in a professional employer agreement or the liabilities and obligations of any professional employer organization or client as defined elsewhere in this subchapter; and

(4) A covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability, insurance, fidelity bonds, surety bonds, or employer's liability not covered by workers' compensation carried by the professional employer organization unless the covered employees are included by specific reference in the professional employer agreement and applicable pre-arranged employment contract, insurance contract, or bond.

(h) Except as provided under § 23-92-411, the sale of professional employer services provided by professional employer organizations licensed under this subchapter shall not constitute the sale of insurance for purposes of Arkansas insurance law.

(i) Covered employees whose services are subject to sales tax shall be deemed the employees of the client for purposes of collecting and levying sales tax on the services performed by the covered employee.

(j) A licensed professional employer organization shall be deemed an employer of the covered employees and shall perform the following employer responsibilities in conformity with all applicable federal and state laws and regulations to:

(1) Pay wages and collect, report, and pay employment taxes from its own accounts;

(2) Pay unemployment taxes as required by the Arkansas Employment Security Law, § 11-10-101 et seq.;

(3)(A) Ensure that all covered employees are covered by workers' compensation insurance provided in conformance with the laws of this state.

(B) Workers' compensation coverage may be provided through a policy or plan maintained by either the professional employer organization or the client.

(C) However, for purposes of risks insured under the Arkansas Workers' Compensation Insurance Plan, § 23-67-301 et seq., the commissioner is authorized to promulgate rules and regulations as he or she deems necessary to assure that workers' compensation coverage is available to employees providing services for a client;

(4) Be entitled and to entitle the client, together as joint employers, to the exclusive remedy under § 11-9-105, under both the workers' compensation and employer's liability provisions of a workers' compensation policy or plan that either party has secured within the meaning of § 11-9-105; and

(5)(A) Not be vicariously liable for the liabilities of the client, whether contractual or otherwise.

(B) However, the client shall not be vicariously liable for the liabilities of the professional employer organization, whether contractual or otherwise.

(C) This section shall limit any direct contractual liability or any joint liability between the client and the professional employer organization.

History. Acts 2003, No. 1750, § 1.

23-92-410. Issuance, refusal, suspension, or revocation of license — Grounds and procedure.

(a) The Insurance Commissioner shall issue a license as a professional employer organization to any person who qualifies for the license under the terms of this subchapter.

(b) In addition, the commissioner may refuse to issue a license to any person, may suspend or revoke the license of any professional employer organization, or impose administrative fines as provided for in this subchapter when the commissioner finds:

(1) That the licensee or applicant has violated any of the provisions of this subchapter, the rules and regulations or other orders lawfully promulgated by the commissioner, or the conditions of financial assurances required by this subchapter;

(2) That the licensee or applicant has engaged in a fraudulent, deceptive, or dishonest practice; or

(3) For good and sufficient cause, that the licensee or applicant is unfit to be a professional employer organization within the meaning of this subchapter or of any of the rules and regulations or orders lawfully promulgated by the commissioner.

(c) The commissioner may not refuse to issue a license or suspend or revoke a license unless he or she furnishes the professional employer organization with a written statement of the charges against it and affords it an opportunity to be heard on the charges.

History. Acts 2003, No. 1750, § 1.

23-92-411. Deceptive practices.

(a) No professional employer organization shall:

(1) Evade or attempt to evade the provisions of this subchapter by purporting to be the sole employer of the covered employees;

(2) Present a proposal to enter into a professional employer agreement with a prospective client unless the following notice is printed in not less than 12-point bold type on the first page of the proposal:

“This proposal is intended to provide information about the general terms and conditions under which the above named firm will enter into an agreement to provide professional employer services. Information contained in this proposal does not constitute advice on legal, tax, or

insurance matters. For advice on these matters, you should consult with the appropriate licensed professional.”;

(3) Enter into a professional employer agreement without a written provision signed by the client stating that the client is responsible for ensuring with the assistance of a licensed insurance producer that any subcontractor of the client has workers’ compensation coverage as required by law;

(4) Transact insurance, as defined under § 23-60-102, except through a licensed resident or nonresident insurance producer;

(5) Use the name or title “licensed employee leasing company”, “employee leasing company”, “employee leasing company group”, “professional employer”, “professional employer organization”, “PEO”, “controlling person”, or words that would tend to lead one to believe that the person or entity is licensed under this subchapter when the person or entity has not been licensed under this subchapter;

(6) Attempt to use a license that has lapsed or has been suspended or revoked;

(7) Fail to maintain workers’ compensation insurance as required by this subchapter;

(8) Conduct business without an active license;

(9) Transfer or attempt to transfer a license issued under this subchapter;

(10) Violate or fail to conform to any provision of this subchapter or any lawful order or rule issued under this subchapter;

(11) Fail to notify the Insurance Commissioner in writing of any change of the primary business address or the addresses of any of the licensee’s offices in the state;

(12) Have an adverse material final action taken by any state or federal regulatory agency for violations within the scope or control of the licensee;

(13) Fail to inform the commissioner in writing within thirty (30) days after any adverse material final action by a state or federal regulatory agency;

(14) Fail to meet or maintain the requirements for licensure as a professional employer organization; or

(15) Attempt to obtain or renew a license to provide professional employment services by bribery, misrepresentation, or fraud.

(b) The commissioner may prescribe by regulation additional acts or omissions that shall be deemed to constitute deceptive practices under this subchapter.

History. Acts 2003, No. 1750, § 1.

23-92-412. Penalties.

(a) Any person who engages in the business of a professional employer organization or acts as a professional employer organization without first procuring a license or who otherwise violates any of the provisions under this subchapter shall be liable for a civil penalty of not

less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000) for each day that it engages in the business of providing professional employer services without a license.

(b)(1) Any person who violates any of the provisions under this subchapter or who violates any rules or regulations promulgated by the commissioner under this subchapter shall be liable for a civil penalty for each offense of not less than two hundred fifty dollars (\$250) nor more than five thousand dollars (\$5,000) for each violation.

(2) For any violation affecting two (2) or more employees covered by a professional employer organization agreement, the fine shall be multiplied by the number of employees affected by the violation.

(c) The Insurance Commissioner shall have the statutory power to enjoin or restrain by bringing an action in the Pulaski County Circuit Court against any person who engages in the business of or acts as a professional employer organization without having first procured a license for engaging in the business of a professional employer organization or acting as a professional employer organization.

History. Acts 2003, No. 1750, § 1.

23-92-413. Nondisclosure of proprietary information.

(a)(1) Professional employer organizations and professional employer organization groups are required under this subchapter to file with the Insurance Commissioner certain proprietary material, including financial records and financial information and client lists, the disclosure of which would give advantage to competitors.

(2)(A) The commissioner shall not consider proprietary material under this subchapter to be subject to mandatory disclosure under § 25-19-105(b)(9)(A).

(B) If litigation or any other proceedings are instituted to compel disclosure, the total expense of the proceedings shall be paid by the professional employer organization or professional employer organization group whose proprietary material is being sought.

(C) The commissioner shall give notice in writing to any professional employer organization or professional employer organization group whose client lists or other material that the commissioner deems to be proprietary are being sought under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b) Notwithstanding subsection (a) of this section or any other law governing disclosure of confidential information, the commissioner, the Director of the Arkansas Employment Security Department, and the Workers' Compensation Commission may exchange information among themselves for the purposes of regulating professional employer organizations.

History. Acts 2003, No. 1750, § 1.

23-92-414. Employer service assurance organization affidavit.

(a) The Insurance Commissioner may provide by rule and regulation for the acceptance of an employer service assurance organization affidavit provided on behalf of a professional employer organization in lieu of the requirements under §§ 23-92-404 — 23-92-406 and 23-92-408 and the fees provided for in § 23-92-407.

(b) The fee for filing an employer service assurance organization affidavit shall be five hundred dollars (\$500) for initial licensure and five hundred dollars (\$500) for each biennial renewal.

History. Acts 2003, No. 1750, § 1.

23-92-415. Licensing of employer service assurance organizations.

(a)(1) No employer service assurance organization shall provide any service relating to the regulation of professional employer organizations, and no state agency, professional employer organization, or insurer shall utilize the services of the organization for those purposes unless the organization has obtained a license from the Insurance Commissioner.

(2) No state agency, professional employer organization, or insurer shall use the services of an employer service assurance organization unless the organization has obtained a license from the commissioner.

(b) No employer service assurance organization shall refuse to supply any services for which it is licensed in Arkansas to any state agency, professional employer organization, or insurer authorized to do business in Arkansas and offering to pay the fair and usual compensation for the services.

(c)(1) An employer service assurance organization applying for a license shall include with its application:

(A) A copy of its:

(i) Constitution, charter, or articles of organization, agreement, association, or incorporation; and

(ii) Bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;

(B) A list of its members and subscribers;

(C) The name and address of one (1) or more residents of this state upon whom notices, process affecting it, or orders of the commissioner may be served;

(D) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(E)(i) Financial assurance acceptable to the commissioner, including:

(a)(1) A surety bond issued by a corporate surety in favor of a trust, maintained at a national bank with the bank serving as trustee, in an amount of not less than one million dollars (\$1,000,000) or an equivalent amount of cash or other security acceptable to the com-

missioner on behalf of each professional employer organization for which the employer service assurance organization provides an affidavit under § 23-92-414.

(2) The security under subdivision (c)(1)(E)(i)(a)(1) shall be held by the trust to compensate for payment of claims made by clients, employees, insurers, or taxing authorities in accordance with the employer service assurance organization's policies and procedures, as approved by the commissioner, and if the professional employer organization fails to pay wages, taxes, insurance premiums, and contributions to employee retirement plans as promised in its professional employer organization service arrangement or as required by law; and

(b) A surety bond issued by a corporate surety in favor of the State of Arkansas in the amount of not less than one hundred thousand dollars (\$100,000), the terms and conditions of which shall be approved by the commissioner.

(ii) The one hundred thousand dollar (\$100,000) surety bond shall be conditioned so that any professional employer organization for which the employer service assurance organization provides an affidavit under § 23-92-414 and each member, employee, shareholder, or officer or a person, firm, partnership, corporation, or association operating as an agent of the professional employer organization will not violate rules, regulations, or orders lawfully promulgated by the commissioner under this subchapter or fail to pay any wages due under any contract made by the professional employer organization in the conduct of its business under this subchapter;

(F) License fees as provided by § 23-61-401 for rate service organizations; and

(G) Any other relevant information and documents that the commissioner may require.

(2)(A) Every organization that has applied for a license shall notify the commissioner of every material change in facts or in the documents on which its application was based.

(B) Any amendment to a document filed under this section shall become effective thirty (30) days after it is filed.

(3)(A) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed and that all requirements of the law are met, he or she shall issue a license specifying the authorized activity of the applicant.

(B) The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to lessen substantially the competition in any market.

(4) Licenses issued under this section shall remain in effect until the licensee withdraws from the state or until the license is suspended or revoked if an employer service assurance organization under § 23-92-416 continues the license each calendar year, upon the following activity by the licensee:

(A) Payment on or before January 1 of a continuation fee as provided in § 23-61-401 for rate service organizations;

(B) Filing of a letter requesting continuation of its license for the following calendar year; and

(C) Submission of information that may be required by the commissioner.

History. Acts 2003, No. 1750, § 1.

23-92-416. Employer service assurance organizations — Prohibited activities.

(a) No employer service assurance organization shall attempt to monopolize or to combine or conspire with any other person to monopolize any market or make any arrangement with any professional employer organization, employer service assurance organization, or other person that has the purpose or effect of unreasonably restraining trade or of substantially lessening competition in the business of professional employer organization services or insurance.

(b) An employer service assurance organization may not have or adopt any rule, exact any agreement, or formulate or engage in any program that would require any member or subscriber to:

(1) Interfere with the right of any professional employer organization to conduct business in the state as permitted by law and independent of that service organization;

(2) Utilize some or all of its services as provided by the service organization's policies and procedures as approved by the Insurance Commissioner;

(3) Adhere to its standards, procedures, or membership requirements except on a voluntary basis; or

(4) Prevent any professional employer organization from acting independently.

History. Acts 2003, No. 1750, § 1.

23-92-417. Employer service assurance organization — Permitted activities.

In addition to other activities permitted, any employer service assurance organization may:

(1) Provide services under §§ 23-92-414 and 23-92-419(b);

(2) Develop and administer standards, procedures, and programs of accreditation and financial assurance and other services for professional employer organizations and state agencies unless otherwise prohibited by law; and

(3) Furnish any other services not prohibited by this subchapter.

History. Acts 2003, No. 1750, § 1.

23-92-418. Filing of information.

(a) Each employer service assurance organization shall file with the Insurance Commissioner each affidavit and related document and information under § 23-92-414 or § 23-92-419(b) on or before the date the affidavit or related document and information are otherwise due, as prescribed by the commissioner.

(b) The commissioner may extend the filing deadline by prior written notice to the filer.

History. Acts 2003, No. 1750, § 1.

23-92-419. Rules and regulations.

(a)(1) The Insurance Commissioner may prescribe rules and regulations for the conduct of the business of professional employer organizations needed to implement this subchapter.

(2) The commissioner shall adopt rules and regulations under this subchapter in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1) The commissioner may adopt reasonable rules for use by employer service assurance organizations to record and report to the commissioner information determined by the commissioner to be necessary or appropriate for the administration of this subchapter and for the effectuation of its purposes.

(2) The commissioner may designate one (1) or more employer service assurance organizations to assist him or her in gathering, compiling, and reporting the information.

History. Acts 2003, No. 1750, § 1.

CHAPTER 93

CONTINUING CARE PROVIDERS

SUBCHAPTER.

1. CONTINUING CARE PROVIDER REGULATION ACT.
2. LICENSING.

Effective Dates. Acts 1987, No. 329, § 17: Mar. 19, 1987. Emergency clause provided: "It is hereby found that the possibility of new Providers commencing business in this State in the absence of any regulation of Continuing Care Facilities poses an economic threat to the citizens of this State, and it is, therefore, declared that an emergency exists, and this Act being necessary to protect the citizens of this State who are contemplating entering into Continuing Care con-

tracts, shall take effect and be in force from and after its passage and approval."

Acts 1989, No. 203, § 7: Feb. 24, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that current laws of this State as to Continuing Care Providers fail to require such facilities to file audited financial statements with the Arkansas Insurance Department. It is hereby determined that current laws fail to require that provider investments be held in the provid-

er's name and within the State of Arkansas. It is determined that Arkansas law does not currently authorize the Insurance Commissioner to conduct a full financial examination of Continuing Care Providers until after a provider is determined to be insolvent or upon written complaint of a current or prospective resident of the facility. It is hereby determined that existing Arkansas laws as to Continuing Care Providers are inadequate to assure solvency of facilities holding funds of the citizens of this State. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1123, § 25: Apr. 9, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety all provisions of this Act other than Section 22 shall be in full force and effect from and after July 1, 1991 and Section 22 shall be in full force and effect from and after the passage and approval of this Act."

SUBCHAPTER 1 — CONTINUING CARE PROVIDER REGULATION ACT

- SECTION.
- 23-93-101. Title.
 - 23-93-102. Legislative intent — Applicability.
 - 23-93-103. Definitions.
 - 23-93-104. Violations.
 - 23-93-105. Rules and regulations.
 - 23-93-106. Disclosure statement — Contents.
 - 23-93-107. Disclosure statement — Review.
 - 23-93-108. Continuing care contracts —

- SECTION.
- Minimum requirements.
 - 23-93-109. Right to rescind contracts.
 - 23-93-110. Misleading, etc., statements prohibited.
 - 23-93-111. Liquid refund reserve requirement.
 - 23-93-112. Escrow account required.
 - 23-93-113. Statutory lien.
 - 23-93-114. Investigations and examinations.

Publisher's Notes. As § 23-93-201 et seq. has been added as subchapter 2 of chapter 93, § 23-93-101 et seq. is to be considered subchapter 1 of this chapter.

23-93-101. Title.

This subchapter shall be known and may be cited as the "Continuing Care Provider Regulation Act".

History. Acts 1987, No. 329, § 1.

23-93-102. Legislative intent — Applicability.

(a) The General Assembly recognizes that continuing care communities have become an important and necessary alternative for the long-term residential, social, and health maintenance needs for many of the state's elderly citizens.

(b) The General Assembly recognizes the need for full disclosure of important facts to an appropriate regulatory agency of the state. Accordingly, the General Assembly has determined that continuing care facilities should be regulated in accordance with the provisions of this subchapter.

(c)(1) The provisions of this subchapter apply equally to for-profit and not-for-profit provider organizations.

(2) The provisions of this subchapter shall be the minimum requirements to be imposed upon any person, association, or organization offering or providing continuing care as set forth in this subchapter.

(3) This subchapter shall not apply to facilities duly authorized and licensed by the State of Arkansas as long-term care facilities providing nursing care.

History. Acts 1987, No. 329, § 2.

23-93-103. Definitions.

As used in this subchapter:

(1) "Commissioner" means the Insurance Commissioner;

(2)(A) "Continuing care" means the furnishing of independent living units to individuals and either:

(i) Furnishing nursing care or personal care services pursuant to an agreement, whether the nursing care or personal care services are provided in the facility or in another setting designated by the agreement for providing continuing care to individuals; or

(ii) Requiring the payment of an entrance fee by an individual not related by consanguinity or affinity to the provider furnishing the living unit. Payments may be made by an entrance fee alone, an entrance fee and periodic payments, or by payment of fees for services.

(B) Agreements to provide continuing care shall include agreements to provide care for any duration including agreements that are terminable by either party;

(3) "Department" means the State Insurance Department;

(4) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility which exceeds six (6) months' rental of the living unit. An accommodation fee, admission fee, or other fee of similar form and application shall be considered to be an entrance fee;

(5) "Facility" means a place which provides continuing care;

(6) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one (1) or more identified individuals;

(7)(A) "Nursing care" means those services pertaining to the curative, restorative, and preventive aspects of nursing services that are performed by or under the supervision of a registered or licensed nurse.

(B) "Nursing care" does not include general health service such as nutritional counseling, exercise programs, or other preventive medicine techniques;

(8)(A) "Personal care services" means assistance with meals, dressing, movement, bathing, or other personal needs of maintenance or other direct supervision and oversight of the physical and mental well-being of a person.

(B) "Personal care services" does not include general health services such as nutritional counseling, exercise programs, or other preventive medicine techniques;

(9) "Provider" means the owner or operator, whether a natural person, partnership, or other incorporated association, trust, or corporation whose owner or operator undertakes to provide continuing care for a fee, whether fixed or variable, for the period of care. The fee may be payable in lump sum, or lump sum and monthly maintenance charges, or in installments;

(10) "Refund reserve" means the actuarially determined annual refund amount required to be maintained by a continuing care provider for service of its refund amounts during the next fiscal year of the facility;

(11) "Resident" means an individual entitled to receive continuing care in a facility; and

(12) "Solicit" means all actions of a provider in seeking to have individuals residing in this state pay an application fee and enter into a continuing care agreement by any means, such as, but not limited to, personal, telephone, or mail communication or any other communication directed to and received by any individual in this state and any advertisements in any media distributed or communicated by any means to individuals in this state.

History. Acts 1987, No. 329, § 3; 1991, No. 1123, § 16; 2001, No. 1553, § 53.

Amendments. The 2001 amendment added the subdivision designations in (2);

inserted "individuals" in the introductory language of (2)(A) and (2)(A)(i); and inserted "providing" in (2)(A)(i).

23-93-104. Violations.

(a) Whenever it appears to the Insurance Commissioner that any person has engaged in, or is about to engage in, any act or practice constituting a violation of any provision of this subchapter or any rule or order under this subchapter, the Insurance Commissioner may:

(1) Issue an order directed at that person requiring that person to cease and desist from engaging in the act or practice;

(2) Bring an action in any court which has appropriate jurisdiction to enjoin the acts or practices and to enforce compliance with this subchapter or any of its rules or orders;

(3) Issue an order directed at that person to cease and desist from engaging in the act or practice and bring an action in any court which has appropriate jurisdiction to enjoin the acts or practices and to

enforce compliance with this subchapter or any of its rules and orders; or

(4) Issue an order assessing a monetary penalty of not more than one thousand dollars (\$1,000) for each violation against that person.

(b) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted.

History. Acts 1987, No. 329, § 12;
1989, No. 203, § 1.

23-93-105. Rules and regulations.

The Insurance Commissioner shall have the authority to adopt, amend, or repeal such rules and regulations as are reasonably necessary for the enforcement of the provisions of this subchapter.

History. Acts 1987, No. 329, § 13.

23-93-106. Disclosure statement — Contents.

(a) No later than sixty (60) days prior to the first solicitation of a contract to provide continuing care, the provider shall deliver an initial disclosure statement to the State Insurance Department. This statement shall contain all of the following information:

(1) The name and business address of the provider and a statement as to whether the provider is a partnership, corporation, or other type of legal entity;

(2) The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a ten percent (10%) or greater equity or beneficial interest in or of the provider, and a description of that person's interest in or occupation with the provider;

(3) A statement as to whether the provider or any of its officers, directors, trustees, partners, managers, or affiliates, within ten (10) years prior to the date of application:

(A) Was convicted of a felony, a crime that if committed in Arkansas would be a felony, or any crime having to do with the provision of continuing care or providing of licensed nursing home care;

(B) Has been held liable or enjoined in a civil action by final judgment if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(C) Had a prior discharge in bankruptcy or was found insolvent in any court action; or

(D) Had any state or federal licenses or permits suspended or revoked or had any state, federal, or industry self-regulatory agency commence an action against him or her and the result of the action;

(4) A statement as to:

(A) Whether the provider is or ever has been affiliated with a religious, charitable, or other nonprofit organization;

(B) The nature of the affiliation, if any;

(C) The extent to which the affiliate organization will be responsible for the financial and contract obligations of the provider; and

(D) The provision of the Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of income tax;

(5) The location and description of the physical property or properties of the facility, existing or proposed, and to the extent proposed, the estimated completion date or dates whether or not construction has begun, and the contingencies subject to which construction may be deferred;

(6) The services provided or proposed to be provided under contracts for continuing care at the facility, including the extent to which medical care is furnished. The disclosure statement shall clearly state which services are included in basic contracts for continuing care and which services are made available at or by the facility at extra charge;

(7) A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner by which the provider may adjust periodic charges or other recurring fees and the limitations on the adjustments, if any;

(8) A balance sheet of the provider, audited by a certified public accountant, and certified to by the provider, as of the end of the two (2) most recent fiscal years;

(9) A calculation of the actuarially required refund reserve showing the alternative bases upon which the calculation is made; and

(10) A copy of the standard form or forms of contract used by the provider which contain the minimum requirements of this subchapter for continuing care contracts to be attached as an exhibit to each disclosure statement.

(b) The provider shall file with the department annually, within four (4) months following the end of the provider's fiscal year, an annual disclosure statement. This statement shall contain the information required by this subchapter for the initial disclosure statement, in addition to a financial statement as of the end of the provider's fiscal year, audited and certified by a certified public accountant.

History. Acts 1987, No. 329, § 4; 1989, No. 203, § 2.

23-93-107. Disclosure statement — Review.

(a) The State Insurance Department shall review the filed disclosure document for the following:

(1) The completeness of the filing; and

(2) The manner and method of computing the reserve.

(b) The Insurance Commissioner shall notify a provider of any deficiency in the filing within sixty (60) days from the date of filing. If the provider is notified of deficiencies in the filing, reasonable time shall be allowed to the provider to correct the deficiencies.

(c) No provider may offer continuing care contracts to the public during the initial sixty-day filing period or during the period allowed to correct deficiencies noted by the commissioner.

(d) All disclosure statements shall be made available at the facility and the office of the commissioner for inspection by the citizens of this state upon request. Each resident of a facility shall be informed of the availability of the statement annually.

(e) Each disclosure statement shall clearly state that:

(1) A prospective or present resident shall rely solely upon the provider for the accuracy and completeness of the information contained in the disclosure statement; and

(2) No independent investigation of the accuracy of the information has been conducted by the commissioner.

History. Acts 1987, No. 329, § 4.

23-93-108. Continuing care contracts — Minimum requirements.

(a) A continuing care contract shall be written in clear and understandable language.

(b) A continuing care contract shall, at a minimum:

(1) Describe the facility's admission policies, including age, health status, and minimum financial requirements, if any;

(2) Describe the health and financial conditions required for a person to continue to be a resident;

(3) Describe the circumstances under which the resident will be permitted to remain in the facility in the event of possible financial difficulties of the resident;

(4)(A) List the total consideration paid, including donations, entrance fee, subscription fees, periodic fees, and other fees paid or payable.

(B) However, a provider cannot require a resident to transfer all his or her assets to the provider or community as a condition for providing continuing care, and the provider shall reserve his or her rights to charge periodic fees;

(5) Describe in detail all items of service to be received by the resident such as food, shelter, medical care, nursing care, personal care services, and other health services and the time period during which such services will be provided;

(6) Provide, as an addendum to the contract, a description of items of service, if any, which are available to the resident but which are not covered in the entrance or monthly fee;

(7) Specify taxes and utilities, if any, that the resident must pay;

(8) Specify that deposits or entrance fees paid by or for a resident shall be held in trust in a cash escrow pursuant to this subchapter;

(9) State the terms under which a continuing care contract may be cancelled by the resident or the provider and the basis for establishing the amount of refund of the entrance fee, if any;

(10) State the terms under which a continuing care contract is cancelled by the death of the resident and the basis for establishing the amount of refund, if any, of the entrance fee;

(11) State when fees will be subject to periodic increases and what the policy for increases will be;

(12) State the entrance fee and periodic fees that will be charged if the resident marries while living in the facility, the terms concerning the entry of a spouse to the facility, and the consequences if the spouse does not meet the requirements for entry;

(13) State the rules and regulations of the provider then in effect and state the circumstances under which the provider claims to be entitled to have access to the resident's unit;

(14) List the resident's and provider's respective rights and obligations as to any real or personal property of the resident transferred to or placed in the custody of the provider;

(15) Describe the living quarters purchased by or assigned to the resident;

(16) Provide under what conditions, if any, the resident may assign the use of a unit to another;

(17) Include the policy and procedure with regard to changes in accommodations due to an increase or decrease in the number of persons occupying an individual unit;

(18) State the conditions upon which the facility may sublet or relet a resident's unit;

(19) State what fee adjustments, if any, will be made in the event of voluntary absence from the facility for an extended period of time by the resident;

(20) Include the procedures to be followed when the provider temporarily or permanently changes the resident's accommodations, either within the facility or by transfer to a health facility;

(21) If the facility includes a nursing facility, describe the admissions policies and what will occur if a nursing facility bed is not available at the time it is needed;

(22) If the resident is offered a priority for nursing facility admission at a facility that is not owned by the continuing care facility, describe with which nursing facility the formal arrangement is made and what will occur if a nursing facility bed is not available at the time it is needed;

(23) Include the policy and procedures for determining under what circumstances a resident will be considered incapable of independent living and will require a permanent move to a nursing facility;

(24) Specify the types of insurance, if any, the resident must maintain, including Medicare, other health insurance, and property insurance;

(25) Specify the circumstances, if any, under which the resident will be required to apply for Medicaid, public assistance, or any other public benefit programs;

(26) State that the provider has filed a disclosure statement with the department and state the contents of the disclosure statement required by § 23-93-106(a)(3); and

(27) State, in bold and conspicuous type, the following:

“THIS CONTRACT IS GOVERNED BY THE CONTINUING CARE PROVIDER REGULATION ACT. THE PROVIDER HAS FILED A DISCLOSURE DOCUMENT WITH THE INSURANCE COMMISSIONER OF THE STATE OF ARKANSAS PRIOR TO OFFERING THIS CONTRACT. THE INSURANCE COMMISSIONER HAS NOT PASSED UPON THE VALIDITY OF THE INFORMATION FILED BY THE PROVIDER, DOES NOT MAKE ANY RECOMMENDATION WITH RESPECT TO THE FAIRNESS OF THE CHARGES MADE BY THE PROVIDER, HAS NOT CONDUCTED AN INDEPENDENT REVIEW OF THE FINANCIAL STRENGTH OF THE PROVIDER AND DOES NOT WARRANT THE ENFORCEABILITY OF ANY CONTRACT OFFERED BY THE PROVIDER. NO PROSPECTIVE RESIDENT SHOULD RELY UPON THE FACT THAT A FILING HAS BEEN MADE WITH THE COMMISSIONER IN MAKING THEIR DECISION. EACH PROSPECTIVE RESIDENT SHOULD CONSULT HIS OWN LEGAL AND FINANCIAL ADVISERS PRIOR TO ENTERING INTO ANY CONTRACT WITH THE PROVIDER.”

History. Acts 1987, No. 329, § 5.

23-93-109. Right to rescind contracts.

For a seven-day period beginning on the date a provider receives any payment from a prospective resident, a prospective resident shall have the right to rescind any contractual obligation into which he or she has entered and receive a full refund of any moneys transferred to the provider.

History. Acts 1987, No. 329, § 6.

23-93-110. Misleading, etc., statements prohibited.

(a) No provider shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement of any sort containing any assertion, representation, or untrue, deceptive, or misleading statement.

(b) No provider shall file with the State Insurance Department or make, publish, disseminate, circulate, or deliver to any person or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before

the public any financial statement which does not accurately state its true financial condition.

History. Acts 1987, No. 329, § 7.

23-93-111. Liquid refund reserve requirement.

(a)(1) Each provider shall establish and maintain liquid refund reserves in an amount determined in accordance with this section.

(2)(A) The refund reserve shall be equal to or shall exceed the actuarially determined annual refund amount as of the financial reporting date.

(B) The actuarially determined annual refund amount shall be calculated upon both the actual experience of the facility and published industry norms.

(C) The method which yields the greater sum shall determine the actuarially determined annual refund amount for the purposes of this section and § 23-93-106(a)(8).

(b) The provider may satisfy the liquid reserve requirement by:

(1) Holding the reserve amount in an escrow account with a federally insured financial institution or institutions located and doing business in this state; or

(2) Purchasing a certificate of deposit from an Arkansas lending institution; or

(3) Investing in bonds, notes, warrants, and other evidences of indebtedness which are direct obligations of the United States of America held in the provider's name and held by the provider within the State of Arkansas; or

(4) Having the unqualified guaranty of an affiliated organization or individual, as evidenced by a written agreement, whose net worth as reported in its most recent financial statement audited by a certified public accountant and certified by the provider and filed with the State Insurance Department, which is equal to five (5) times the reserve amount or portion of the reserve amount to be satisfied by this method; or

(5) Any combination of the foregoing.

(c) When requested by the Insurance Commissioner, the provider shall furnish all of the information relating to the amount of the reserve and the method used to maintain the reserve amount.

History. Acts 1987, No. 329, § 8; 1989, No. 203, § 3.

23-93-112. Escrow account required.

(a)(1) The Insurance Commissioner shall require that the provider establish an interest-bearing escrow account with a financial institution authorized to do business in this state. Any entrance fees or payments received by the provider prior to the date the resident is

permitted to occupy the living unit in the facility shall be placed in the escrow account.

(2) Release of escrowed amounts to the provider shall be made as follows:

(A) For living units that have been previously occupied, at the time the new resident makes the first monthly payment; or

(B) For living units not previously occupied, at the earliest to occur of one (1) of the following:

(i) When aggregate fees received or receivable equal fifty percent (50%) of total entrance fees due at full occupancy, except that any entrance fee payments that are less than thirty-five percent (35%) of the amount due from a resident will not be counted;

(ii) When entrance fees plus the proceeds of any first mortgage or other long-term loan in lieu of a first mortgage, plus other funds on hand, equal fifty percent (50%) of the total cost of the facility plus fifty percent (50%) of the start-up losses shown in the provider's application submitted under § 23-93-207; or

(iii) When a permanent mortgage or other long-term loan commitment has been received and the mortgagee's commitment conditions prior to disbursement, other than completing construction and closing the purchase, have been satisfied.

(b) If the funds in an escrow account and any interest earned on the funds are not released within thirty-six (36) months, or such greater time as may have been specified by the provider with the consent of the commissioner, then the funds shall be returned by the escrow agent to the persons who made the payment to the provider.

(c) Nothing in this section shall require the escrow of any nonrefundable application fees charged to prospective residents.

(d) An entrance fee held in escrow may be returned by the escrow agent at any time to the person or persons who paid the fee to the provider upon receipt by the escrow agent of notice from the provider that such a person is entitled to a refund of the entrance fee.

History. Acts 1987, No. 329, § 9; 1995, No. 1351, § 1.

23-93-113. Statutory lien.

In the event of the bankruptcy or receivership of the provider resulting from the financial difficulties of the provider, the residents of the facility shall have a statutory lien on the real and personal property of the facility. This lien shall be subordinate to liens of record prior to the date of a filing of a petition in bankruptcy or petition for receivership but shall be superior to all other creditors.

History. Acts 1987, No. 329, § 10.

23-93-114. Investigations and examinations.

(a) The State Insurance Department may conduct any investigation or examination deemed necessary by the Insurance Commissioner:

(1) For the public health, safety, and welfare of a resident or potential resident of a facility;

(2) In response to a written complaint filed by a resident or prospective resident;

(3) If it appears from the filings required by this subchapter that the solvency of the facility is in question; or

(4) To determine whether any provision of this subchapter or any rule or order has been violated.

(b) The commissioner may conduct any investigation in person or direct any department employee to act on the commissioner's behalf. For any on-site investigation, the expenses incurred, including compensation of any department examiner, shall be paid by the facility being investigated. For the purposes of this section, the provisions of § 23-61-206 shall apply.

(c) The commissioner may conduct a financial examination. The commissioner may utilize department examiners or he or she may retain independent certified public accountants to conduct the examination. Each facility being examined shall pay the department the expenses incurred pursuant to § 23-61-206. The cost of any retained accountants shall not be in excess of the amount that could be charged for department examiners.

(d) When the services of an actuary are deemed necessary in any investigation or examination, the commissioner may retain an independent actuary with those expenses being paid by the facility.

(e) The commissioner or any officer designated by the commissioner may administer oaths and affirmations, issue subpoenas, hear testimony, and take evidence in reference to any investigation or examination conducted pursuant to this subchapter.

History. Acts 1987, No. 329, § 11;
1989, No. 203, § 4.

SUBCHAPTER 2 — LICENSING

SECTION.

23-93-201. Definitions.

23-93-202. Continuing Care Provider
Regulation Act — Applicability.

23-93-203. License not transferable —

SECTION.

Limitation on contracts.

23-93-204. Issuance of license.

23-93-205. Violations.

23-93-206. Fees.

23-93-207. Application.

23-93-201. Definitions.

As used in this subchapter:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Department" means the State Insurance Department;

(3) "Entrance fee" means a payment that assures a resident a place in a facility for a term of years or for life;

(4) "Facility" means a place which provides life care;

(5) "Hazardous financial condition" means a provider is insolvent or in imminent danger of becoming insolvent;

(6) "Life care" means continuing care as defined in § 23-93-103(2), except that no additional charges are made for nursing care or personal care services beyond those charged all residents of the facility who are not receiving nursing care or personal care services;

(7) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one (1) or more identified individuals;

(8)(A) "Nursing care" means those services pertaining to the curative, restorative, and preventive aspects of nursing services that are performed by or under the supervision of a registered or licensed nurse.

(B) "Nursing care" does not include general health service such as nutritional counseling, exercise programs, or other preventive medicine techniques;

(9)(A) "Personal care services" means assistance with meals, dressing, movement, bathing, or other personal needs of maintenance or other direct supervision and oversight of the physical and mental well-being of a person.

(B) "Personal care services" does not include general health services such as nutritional counseling, exercise programs, or other preventive medicine techniques;

(10) "Provider" means the owner or operator, whether a natural person, partnership, or other incorporated association, trust, or corporation whose owner or operator undertakes to provide life care for a fee, whether fixed or variable, for the period of care. The fee may be payable in lump sum, or lump sum and monthly maintenance charges, or in installments;

(11) "Refund reserve" means the actuarially determined annual refund amount required to be maintained by a life care provider for service of its refund amounts during the next fiscal year of the facility;

(12) "Resident" means an individual entitled to receive life care in a facility; and

(13) "Solicit" means all actions of a provider in seeking to have individuals residing in this state pay an application fee and enter into a life care agreement by any means, such as, but not limited to, personal, telephone, or mail communication, or any other communication directed to and received by any individual in this state, and any advertisements in any media distributed or communicated by any means to individuals in this state.

History. Acts 1993, No. 787, § 1.

23-93-202. Continuing Care Provider Regulation Act — Applicability.

(a) In addition to the provisions of this subchapter, life care providers shall be subject to the provisions of the Continuing Care Provider Regulation Act, § 23-93-101 et seq.

(b) No life care provider shall be established, conducted, or maintained in this state without obtaining a license from the Insurance Commissioner. However, life care providers established prior to August 13, 1993, shall be licensed without application or payment of a fee.

History. Acts 1993, No. 787, §§ 2, 3.

23-93-203. License not transferable — Limitation on contracts.

(a) No license is transferable, and no license issued pursuant to this subchapter has value for sale or exchange as property.

(b) No provider or other owning entity shall sell or transfer ownership of the facility or enter into a contract with a third-party provider for management of the facility unless the State Insurance Department approves such a transfer or contract.

History. Acts 1993, No. 787, § 4.

23-93-204. Issuance of license.

The State Insurance Department shall issue a license upon its affirmative determination that all of the following requirements have been met:

(1) The provider can fulfill its obligation under the life care contract if the resident complies with the terms of the offer;

(2) There is reasonable assurance that all proposed improvements can be completed as represented;

(3) The provider, its officers, and principals have not been convicted of a crime in this state, the United States, or any other state or foreign country within the past ten (10) years, the seriousness of which in the opinion of the department warrants the denial of a permit;

(4) The provider, its officers, and principals have not been subject to any permanent injunction or final administrative order restraining a false or misleading plan involving a facility disposition, the seriousness of which in the opinion of the department warrants the denial of a permit; and

(5) The disclosure statement requirements of the Continuing Care Provider Regulation Act, § 23-93-101 et seq., have been satisfied.

History. Acts 1993, No. 787, § 7.

23-93-205. Violations.

(a) The license of a provider shall remain in effect until revoked after notice and hearing, upon written finding of fact by the State Insurance Department, that the provider has:

(1) Willfully violated any provision of this subchapter, or any regulation promulgated under this subchapter;

(2) Failed to file an annual disclosure statement or standard form of contract as required by the Continuing Care Provider Regulation Act, § 23-93-101 et seq.;

(3) Delivered to a prospective resident a disclosure statement that makes an untrue statement or omits a material fact, and the provider, at the time of the delivery of the disclosure statement, had actual knowledge of the misstatement or omission;

(4) Failed to comply with the terms of a cease and desist order issued pursuant to § 23-93-104; or

(5) Has been determined by the department to be in a hazardous financial condition.

(b) Findings of fact in support of revocation shall be accompanied by an explicit statement of the underlying facts supporting the finding.

History. Acts 1993, No. 787, § 8.

23-93-206. Fees.

(a)(1) An application for a license shall consist of a statement containing the items set forth in this subchapter, together with a filing fee in the amount of four hundred dollars (\$400) plus forty dollars (\$40.00) per living unit made payable to the Treasurer of State.

(2) In the event living units are added during the application process, an additional fee of forty dollars (\$40.00) per living unit shall be paid.

(b)(1) Upon receipt of the complete application for a license, the State Insurance Department shall issue a notice of filing to the applicant within ten (10) business days.

(2) Within ninety (90) days of the notice of filing, the department shall enter an order issuing the license or rejecting the application.

(c)(1) If the Insurance Commissioner determines that any of the application requirements have not been met, the commissioner shall notify the applicant that the application must be corrected within thirty (30) days in those particulars designated by the commissioner.

(2)(A) If the requirements are not met within the time allowed, the commissioner may enter an order rejecting the application. The order shall include the finding of fact upon which the order is based and which shall not become effective until twenty (20) days after the end of the thirty-day period.

(B) During the twenty-day period, the applicant may petition for reconsideration and is entitled to a hearing.

(d) If a facility is accredited by a process approved by the commissioner as substantially equivalent to the requirements of this subchapter, then the facility shall be deemed to have met the requirements of

this subchapter and the commissioner shall issue a license to the facility.

History. Acts 1993, No. 787, § 5.

23-93-207. Application.

The application for a license shall contain the following documents and information:

(1)(A) An appointment of an Arkansas resident to serve as the registered agent for the provider shall be filed with the State Insurance Department. Thereafter, the registered agent shall be authorized to receive service of any lawful process in any proceeding arising under this subchapter against the provider or his or her agents.

(B) On and after January 1, 2003, all licensed life care providers shall file with the Insurance Commissioner a designation of an Arkansas resident as an agent for service of legal process, and the commissioner shall maintain a listing in conformity with § 23-63-301 et seq.;

(2) The states or other jurisdictions, including the federal government, in which an application for certification or similar documents for the subject facility have been or will be filed and any order, judgment, or decree entered in connection therewith by the regulatory authorities in each of the jurisdictions or by any court or administrative body thereof;

(3) The names and business addresses of the officers, directors, trustees, managing or general partners, and any person having a ten percent (10%) or greater equity or beneficial interest in the provider and a description of that person's interest in or occupation with the provider;

(4)(A) Copies of:

(i) The articles of incorporation, with all amendments thereto, if the provider is a corporation;

(ii) All instruments by which the trust is created or declared, if the provider is a trust; and

(iii) The articles of partnership or association and all other organization papers, if the provider is organized under another form.

(B) In the event the provider is not the legal title holder to the property upon which the facility is or is to be constructed, the documents listed in subdivision (4)(A) of this section shall be submitted for both the provider and the legal title holder;

(5) A legal description by metes and bounds or other acceptable means of the lands to be certified, and the relationship of such lands to existing streets, roads, and other improvements, together with a map showing the proposed or actual facility and showing the dimensions of the living units as available, except for living units that are completed and available for inspection. The map shall be drawn to scale, signed, and sealed by a licensed professional engineer or land surveyor;

(6) Copies of the deed or other instrument establishing title of the provider and a title search, title report, or title certificate, or a binder or policy issued by a licensed title insurance company;

(7) A statement concerning any litigation, orders, judgments, or decrees which might affect the offering;

(8) A statement that the life care agreements will be offered to the public and entered into without regard to marital status, sex, race, creed, or national origin or, if not, any legally permissible restrictions on purchase that will apply;

(9) A statement of the present conditions of physical access to the facility, and the existence of any material adverse conditions that affect the facility that are known, should be known, or are readily ascertainable;

(10) Copies of all contracts and agreements which the resident may be required to execute;

(11) In the event there is or will be a blanket encumbrance affecting the facility or a portion thereof, a copy of the document creating it and a statement of the consequences upon a resident of a failure of the person bound to fulfill the obligations under which the instrument and the manner in which the interest of the resident is to be protected in the event of such eventuality;

(12) One (1) copy of the proposed disclosure statement required under § 23-93-106;

(13) A current financial statement of the provider and any related predecessor, parent, or subsidiary company, including, but not limited to, a current profit and loss statement and balance sheet audited by an independent public accountant;

(14) A statement concerning any adjudication of bankruptcy during the last five (5) years against the provider, its predecessor, parent, or subsidiary company, and any principal owning more than ten percent (10%) of the interests in the facility at the time of the filing of the application for certification. This requirement shall not extend to limited partners or those whose interests are solely those of investors;

(15) Copies of all easements and restrictions, whether of record or not;

(16) A statement as to the status of compliance with all the requirements of all laws, ordinances, and regulations of governmental agencies having jurisdiction over the construction, permitting, and licensing of the facility, together with copies of all necessary federal, state, county, and municipal approvals;

(17) A statement that neither the provider nor any of its officers or principals have ever been convicted of a crime in this state or a foreign jurisdiction and that the provider has never been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving continuing care facility disposition, or, if so, copies of all pleadings and orders in regard thereto;

(18) A projected annual budget for the facility for the next five (5) years or such lesser time as the department allows;

(19) Copies of market studies, if any, prepared on behalf of the provider concerning the feasibility of the project;

(20) An affidavit, signed by the provider, that the contents of the application are true and accurate and made in good faith; and

(21) Such other additional information as the department may require in individual cases after review of an application for certification to assure full and fair disclosure.

History. Acts 1993, No. 787, § 6; 2001, No. 1604, § 118.

Amendments. The 2001 amendment rewrote (1).

CHAPTER 94

LIABILITY RISK RETENTION

SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. RISK RETENTION AND PURCHASING GROUPS ACT.
3. EXEMPTIONS. [REPEALED.]

Publisher's Notes. Former Chapter 94, concerning liability risk retention, was repealed by Acts 1995, No. 623, § 2. The former chapter was derived from the following sources:

- 23-94-101. Acts 1987, No. 408, § 1.
- 23-94-102. Acts 1987, No. 408, § 2.
- 23-94-103. Acts 1987, No. 408, §§ 21, 24; 1989, No. 891, §§ 1, 2.
- 23-94-104. Acts 1987, No. 408, § 22; 1989, No. 891, § 3.
- 23-94-105. Acts 1987, No. 408, § 23; 1989, No. 891, § 4.
- 23-94-106. Acts 1987, No. 408, § 20.
- 23-94-107. Acts 1987, No. 408, § 26.
- 23-94-108. Acts 1987, No. 408, § 25.

- 23-94-201. Acts 1987, No. 408, § 3.
- 23-94-202. Acts 1987, No. 408, § 4; 1989, No. 891, § 5; 1991, No. 1123, § 17.
- 23-94-203. Acts 1987, No. 408, §§ 5, 6.
- 23-94-204. Acts 1987, No. 408, §§ 7, 8.
- 23-94-205. Acts 1987, No. 408, § 9; 1989, No. 891, § 6.
- 23-94-206. Acts 1987, No. 408, § 10.
- 23-94-207. Acts 1987, No. 408, § 16.
- 23-94-208. Acts 1987, No. 408, §§ 11-13, 15.
- 23-94-209. Acts 1987, No. 408, § 14.
- 23-94-301. Acts 1987, No. 408, § 17.
- 23-94-302. Acts 1987, No. 408, § 18; 1989, No. 891, § 7.
- 23-94-303. Acts 1987, No. 408, § 19.

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — RISK RETENTION AND PURCHASING GROUPS ACT

SECTION.

- 23-94-201. Title.
- 23-94-202. Purpose.
- 23-94-203. Definitions.
- 23-94-204. Domestic risk retention groups.
- 23-94-205. Foreign risk retention groups.
- 23-94-206. Compulsory associations.
- 23-94-207. Purchasing groups — Exemption from certain laws.

SECTION.

- 23-94-208. Notice and registration requirements of purchasing groups.
- 23-94-209. Restrictions on insurance purchased by purchasing groups.
- 23-94-210. Taxation.
- 23-94-211. License fees.
- 23-94-212. Administrative and proce-

SECTION.

dural authority regarding risk retention groups and purchasing groups.

23-94-213. Duty of agents or brokers to obtain license.

SECTION.

23-94-214. Binding effect of orders issued in United States District Court.

23-94-215. Rules and regulations.

Publisher's Notes. As to the repeal of former subchapter 2, see the Publisher's Notes at the beginning of this chapter.

Effective Dates. Acts 1995, No. 623, § 6: Mar. 14, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the present insurance laws are not sufficient to protect the Arkansas insurance buying public. It is determined that it is in the best interests of the State of Arkansas that the laws in this act be adopted immediately so that the Arkansas Insurance Department can better regulate the insurance industry. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 580, § 30: Mar. 6, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly of the State of Arkansas that the present laws on licensure of Arkansas surplus line brokers do not meet compliance with the Gramm-Leach-Bliley Act of 1999, Public Law 106-102, 113 Stat. 1338, and that other insurance laws are inadequate to protect the public; that in pertinent part, the changes to the insurance code are needed to assure compliance with the provisions of that new federal law which do not allow discrimination in licensure of resident and nonresident ap-

plicants for insurance by state insurance regulators; that Arkansas must achieve compliance with this new Federal law which was enacted in 1999 and which has a November 12, 2002 compliance deadline in regard to the Arkansas Insurance Department's regulation of agents, brokers, surplus line brokers, and other applicants for individual and corporate licenses; and that implementation after the effective date of this act will require significant time on the part of the industry and the Arkansas Insurance Department to come into compliance by the November 12, 2002, deadline. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 580, § 29: July 1, 2002. However, the commissioner may extend the effective date to a subsequent date, but no later than October 31, 2002, if he finds that implementation of the act is not possible by July 1, 2002."

23-94-201. Title.

This subchapter may be cited as the "Risk Retention and Purchasing Groups Act".

History. Acts 1995, No. 623, § 1.

23-94-202. Purpose.

The purpose of this subchapter is to regulate the formation and operation of risk retention groups and purchasing groups in this state formed pursuant to the provisions of the Liability Risk Retention Act of 1986 ("RRA 1986"), to the extent permitted by such law.

History. Acts 1995, No. 623, § 1. tion Act of 1986, referred to in this section,
U.S. Code. The Liability Risk Reten- is codified at 15 U.S.C. § 3901nt.

23-94-203. Definitions.

As used in this subchapter:

A. "Commissioner" means the Insurance Commissioner of this state or the commissioner, director, or superintendent of insurance in any other state;

B. "Completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by

(1) Any person who performs that work; or

(2) Any person who hires an independent contractor to perform that work; but shall include liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability;

C. "Domicile", for purposes of determining the state in which a purchasing group is domiciled, means:

(1) For a corporation, the state in which the purchasing group is incorporated; and

(2) For an unincorporated entity, the state of its principal place of business;

D. "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able

(1) To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

(2) To pay other obligations in the normal course of business;

E. "Insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under the laws of this state;

F. "Liability"

(1) Means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to such other persons resulting from or arising out of

(a) Any business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations; or

(b) Any activity of any state or local government, or any agency or political subdivision thereof; and

(2) Does not include personal risk liability and an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. § 51 et seq.);

G. "Personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subdivision (F) of this section;

H. "Plan of operation" or "feasibility study" means an analysis which presents the expected activities and results of a risk retention group including, at a minimum:

(1) Information sufficient to verify that its members are engaged in businesses or activities similar or related with respect to the liability to which such members are exposed by virtue of any related, similar or common business, trade, product, services, premises, or operations;

(2) For each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

(3) Historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;

(4) Pro forma financial statements and projections;

(5) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

(6) Identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements;

(7) Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each such state; and

(8) Such other matters as may be prescribed by the commissioner of the state in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state;

I. "Product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage, including damages resulting from the loss of use of property, arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product, but does not include the liability of any person for those damages if the product involved was in the possession of such a person when the incident giving rise to the claim occurred;

J. "Purchasing group" means any group which:

(1) Has as one of its purposes the purchase of liability insurance on a group basis;

(2) Purchases such insurance only for its group members and only to cover their similar or related liability exposure, as described in subdivision (J)(3) of this section;

(3) Is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

(4) Is domiciled in any state;

K. "Risk retention group" means any corporation or other limited liability association:

(1) Whose primary activity consists of assuming and spreading all, or any portion, of the liability exposure of its group members;

(2) Which is organized for the primary purpose of conducting the activity described under subdivision (K)(1) of this section;

(3) Which

(a) Is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(b) Before January 1, 1985 was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before such date, had certified to the insurance commissioner of at least one (1) state that it satisfied the capitalization requirements of such state, except that any such group shall be considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as such terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the Liability Risk Retention Act of 1986;

(4) Which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person;

(5) Which

(a) Has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group; or

(b) Has as its sole owner an organization which has as

(i) Its members only persons who comprise the membership of the risk retention group; and

(ii) Its owners only persons who comprise the membership of the risk retention group and who are provided insurance by such group;

(6) Whose members are engaged in businesses or activities similar or related with respect to the liability of which such members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations;

(7) Whose activities do not include the provision of insurance other than

(a) Liability insurance for assuming and spreading all or any portion of the liability of its group members; and

(b) Reinsurance with respect to the liability of any other risk retention group, or any members of such other group, which is engaged in businesses or activities so that the group or member meets the requirement described in subdivision (K)(6) of this section from membership in the risk retention group which provides such reinsurance; and

(8) The name of which includes the phrase "Risk Retention Group";

L. "State" means any state of the United States or the District of Columbia;

M. "Department" means the State Insurance Department.

History. Acts 1995, No. 623, § 1.

U.S. Code. The Liability Risk Retention Act of 1986, referred to in this section, is codified as 15 U.S.C. § 3901nt.

The Product Liability Risk Retention Act of 1981, referred to in this section, is codified as 15 U.S.C. § 3901 et seq.

23-94-204. Domestic risk retention groups.

A.(1) To be organized as a risk retention group in this state, the group must be organized and licensed to write only casualty insurance pursuant to this subchapter and, except as provided elsewhere in this subchapter, must comply with all of the laws, rules, regulations, and requirements applicable to such insurers licensed in this state and with § 23-94-205 to the extent such requirements are not a limitation on laws, rules, regulations, or requirements of this state. The commissioner shall issue a certificate of registration to a risk retention group organized, formed, or domiciled under the laws of this state when the commissioner is satisfied that the applicant group has fully complied with the provisions of this subchapter. No risk retention group organized, formed, or domiciled under the laws of this state shall transact business in this state unless so authorized by a subsisting certificate of registration issued by the commissioner.

(2) Notwithstanding any other provision to the contrary, all risk retention groups domiciled in this state shall file, annually on or before March 1, or within any extension of time therefor which the commissioner for good cause may have granted, with the Department and the National Association of Insurance Commissioners (NAIC), an annual statement in a form prescribed by the National Association of Insurance Commissioners and in diskette form, if required by the commissioner and completed in accordance with its instructions and the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.

B. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of this state a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, within ten (10) days of any such change. The group shall not offer any

additional kinds of casualty insurance, in this state or in any other state, until a revision of such plan or study is approved by the commissioner.

C. At the time of filing its application for a certificate of registration, the risk retention group shall provide to the commissioner in summary form the following information: the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group, the amount and nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of this information, the commissioner shall forward such information to the National Association of Insurance Commissioners. Providing notification to the National Association of Insurance Commissioners is in addition to and shall not be sufficient to satisfy the requirements of § 23-94-205 or any other sections of this subchapter.

History. Acts 1995, No. 623, § 1.

23-94-205. Foreign risk retention groups.

Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state must apply for and obtain a certificate of registration from the commissioner using the forms prescribed by the department. The commissioner shall issue a certificate of registration to risk retention groups chartered and licensed under the laws of other states when the commissioner is satisfied that the applicant groups have complied with the provisions of this subchapter. No risk retention group chartered and licensed in states other than this state shall transact business in this state unless so authorized by a subsisting certificate of registration issued by the commissioner. Each such group shall comply with the laws of this state as follows:

A. NOTICE OF OPERATIONS AND DESIGNATION OF COMMISSIONER AS AGENT.

(1) Before offering insurance in this state, a risk retention group shall submit to the commissioner on a form prescribed by the National Association of Insurance Commissioners:

(a) A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, charter date, its principal place of business, and such other information, including information on its membership, as the commissioner may require to verify that the risk retention group is qualified under § 23-94-203(K);

(b) A copy of its plan of operation or feasibility study and revisions of such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

(i) Was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(ii) Was offered before that date by any risk retention group which had been chartered and operating for not less than three (3) years before that date; and

(2) The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required pursuant to § 23-94-204(B) at the same time that such revision is submitted to the commissioner of its chartering state.

(3) The risk retention group shall submit a statement of registration, for which a filing fee shall be determined by the commissioner, which designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

B. FINANCIAL CONDITION. Any risk retention group doing business in this state shall submit to the commissioner annually on or before March 1, or within any extension of time therefor which the commissioner for good cause may have granted, an annual statement in a form prescribed by the National Association of Insurance Commissioners and completed in accordance with the instructions and the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual. Additional information that must be submitted to the commissioner by the risk retention group doing business in this state shall include all of the following:

(1) A copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by the National Association of Insurance Commissioners;

(2) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(3) Upon request by the commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group; and

(4) Such information as may be required to verify its continuing qualification as a risk retention group under § 23-94-203(K).

C. AGENT AND BROKER RECORDS. To the extent that insurance agents or brokers are utilized pursuant to § 23-94-213, such agent or broker shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the commissioner. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

(1) The limit of liability;

(2) The time period covered;

(3) The effective date;

(4) The name of the risk retention group which issued the policy;

- (5) The gross premium charged; and
- (6) The amount of return premiums, if any.

D. COMPLIANCE WITH TRADE PRACTICES ACT. Any risk retention group, its agents and representatives shall comply with the provisions of the Trade Practices Act, § 23-66-201 et seq., and other pertinent provisions of the Arkansas Insurance Code. Any risk retention group, its agents, and its representatives shall comply with the provisions of the claims settlement practices in § 23-66-206(9) and (10) and other pertinent provisions of the Arkansas Insurance Code. Any risk retention group shall comply with the provisions of Arkansas law regarding deceptive, false, or fraudulent acts or practices. If the commissioner seeks an injunction regarding deceptive, false, or fraudulent conduct, the injunction must be from a court of competent jurisdiction.

E. EXAMINATION REGARDING FINANCIAL CONDITION. Any risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within sixty (60) days after a request by the commissioner of this state. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the most current edition of the National Association of Insurance Commissioners' Examiner Handbook.

F. NOTICE TO PURCHASERS. Every application form for insurance from a risk retention group, and every policy on its front and declaration pages issued by a risk retention group, shall contain in 10-point type the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

G. PROHIBITED ACTS REGARDING SOLICITATION OR SALE. The following acts by a risk retention group are hereby prohibited:

- (1) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; and
- (2) The solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or financially impaired.

H. PROHIBITION ON OWNERSHIP BY AN INSURANCE COMPANY. No risk retention group shall be allowed to do business in this state if an insurance company is directly or indirectly a member or owner of such risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

I. PROHIBITED COVERAGE. The terms of any insurance policy issued by any risk retention group shall not provide, or be construed to provide,

coverage prohibited generally by statute of this state or declared unlawful by the highest court of this state whose law applies to such policy.

J. DELINQUENCY PROCEEDINGS. A risk retention group not chartered in this state and doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state insurance commissioner if there has been a finding of financial impairment after an examination under subdivision (E) of this section.

K. PENALTIES. A risk retention group that violates any provision of this subchapter will be subject to fines and penalties, including revocation of its right to do business in this state, applicable to licensed insurers generally.

L. OPERATION PRIOR TO ENACTMENT OF THIS SUBCHAPTER. In addition to complying with the requirements of this section, any risk retention group operating in this state prior to March 14, 1995, shall, within thirty (30) days after March 14, 1995, comply with the provisions of subdivision (A)(1) of this section.

History. Acts 1995, No. 623, § 1.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was originally enacted by Acts 1959, No. 148. Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

U.S. Code. The Product Liability Risk Retention Act of 1981, referred to in this section, is codified as 15 U.S.C. § 3901 et seq.

23-94-206. Compulsory associations.

A. No risk retention group shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds or claimants against its insureds, receive any benefit from any such fund for claims arising under the insurance policies issued by a risk retention group.

B. When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or a risk retention group, no such risks, wherever resident or located, shall be covered by any insurance guaranty fund or similar mechanism in this state.

C. When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state shall be covered by the appropriate state guaranty fund.

History. Acts 1995, No. 623, § 1.

23-94-207. Purchasing groups — Exemption from certain laws.

A purchasing group and its insurer or insurers shall be subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers shall be exempt, in regard to liability insurance for the purchasing group, from any law that would:

A. Prohibit the establishment of a purchasing group;

B. Make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

C. Prohibit a purchasing group or its members from purchasing insurance on a group basis described in subdivision (B) of this section;

D. Prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

E. Require that a purchasing group must have a minimum number of members, common ownership or affiliation, or certain legal form;

F. Require that a certain percentage of a purchasing group must obtain insurance on a group basis;

G. Otherwise discriminate against a purchasing group or any of its members; or

H. Require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.

History. Acts 1995, No. 623, § 1.

23-94-208. Notice and registration requirements of purchasing groups.

A. A purchasing group which intends to do business in this state must obtain a certificate of registration from the commissioner. The commissioner shall issue a certificate of registration to a purchasing group organized and formed under the laws of any state when the commissioner is satisfied that the applicant group has fully complied with the provisions of this subchapter. Each purchasing group which intends to do business in this state shall, prior to doing business, furnish notice to the commissioner which shall, on forms prescribed by the National Association of Insurance Commissioners:

(1) Identify the state in which the group is domiciled;

(2) Identify all other states in which the group intends to do business;

(3) Specify the lines and classifications of casualty insurance which the purchasing group intends to purchase;

(4) Identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of such company;

(5) Specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state;

(6) Identify the principal place of business of the group; and

(7) Provide such other information as may be required by the commissioner to verify that the purchasing group is qualified for a certificate of registration.

B. A purchasing group shall, within ten (10) days, notify the commissioner of any changes in any of the items set forth in subdivision (A) of this section.

C. The purchasing group shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process, for which a filing fee shall be determined by the commissioner, except that such requirements shall not apply in the case of a purchasing group which only purchases insurance that was authorized under the Product Liability Risk Retention Act of 1981, and:

(1) Which in any state of the United States

(a) Was domiciled before April 1, 1986; and

(b) Is domiciled on and after October 27, 1986;

(2) Which

(a) Before October 27, 1986 purchased insurance from an insurance carrier licensed in any state; and

(b) Since October 27, 1986 purchased its insurance from an insurance carrier licensed in any state; or

(3) Which was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

D. Each purchasing group that is required to give notice pursuant to subdivision (A) of this section shall also furnish such information as may be required by the commissioner to:

(1) Verify that the entity qualifies as a purchasing group;

(2) Determine where the purchasing group is located; and

(3) Determine appropriate tax treatment.

E. Any purchasing group which was doing business in this state prior to March 14, 1995, shall, within thirty (30) days after March 14, 1995, furnish notice to the commissioner pursuant to the provisions of subdivision (A) of this section and furnish such information as may be required pursuant to subdivisions (B) and (C) of this section.

History. Acts 1995, No. 623, § 1.

section, is codified as 15 U.S.C. § 3901 et

U.S. Code. The Product Liability Risk Retention Act of 1981, referred to in this

seq.

23-94-209. Restrictions on insurance purchased by purchasing groups.

A. A purchasing group may not purchase insurance from a risk retention group that does not hold a certificate of registration in this state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus line laws and regulations of such state.

B. A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform

each of the members of the group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

C. No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole; however, coverage may provide for a deductible or self-insured retention applicable to individual members.

D. Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

History. Acts 1995, No. 623, § 1.

23-94-210. Taxation.

A. Each authorized risk retention group shall, on or before March 1 of each year, file with the commissioner on forms prescribed by the commissioner a statement for the preceding calendar year showing all premiums paid to the risk retention group for risks insured within this state.

B. Coincident with the filing of the report, each authorized risk retention group shall submit to the Treasurer of State through the commissioner, as a tax imposed for the privilege of transacting business as a risk retention group within this state, a tax of four percent (4%) on all premiums paid for coverages within this state to the risk retention group within the preceding calendar year as shown by the annual statement filed with the commissioner.

C. Agents or brokers shall report in an annual statement and pay the four percent (4%) tax on or before March 1 of each year for the premiums for risks which they have placed within the preceding calendar year with or on behalf of a risk retention group not authorized to do business in this state by a subsisting certificate of registration issued by the commissioner.

D. Any risk retention group, agent, or broker who fails to file the annual statement or fails to remit the tax as provided by law on March 1 when the tax is due shall be liable for a fine of one hundred dollars (\$100) for each day of delinquency commencing with March 1. However, for good cause shown, the commissioner, after a written request, may grant a reasonable extension of time within which the statement may be filed and the tax paid. The tax may be collected by distraint, or the tax and fine may be covered by an action instituted by the commissioner in any court of competent jurisdiction. The commissioner shall pay to the Treasurer of State any fine so collected.

History. Acts 1995, No. 623, § 1.

23-94-211. License fees.

The provisions as to fees for obtaining and continuing licenses for insurers, agents, and brokers under § 23-61-401 shall be applicable to risk retention groups, purchasing groups, risk retention group agents and purchasing group brokers, resident surplus line brokers, and non-resident surplus line purchasing group brokers under the provisions of this subchapter and the Surplus Lines Insurance Law, § 23-65-301 et seq., except as they conflict with the provisions of the Liability Risk Retention Act of 1986.

History. Acts 1995, No. 623, § 1.

U.S. Code. The Liability Risk Reten-

tion Act of 1986, referred to in this section, is codified as 15 U.S.C. § 3901nt.

23-94-212. Administrative and procedural authority regarding risk retention groups and purchasing groups.

The commissioner is authorized to make use of any of the powers established under the Insurance Code of this state to enforce the laws of this state not specifically preempted by the Risk Retention Act of 1986 including the commissioner's administrative authority to investigate, issue subpoena, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to any investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural laws of this state. The injunctive authority of the commissioner, in regard to risk retention groups, is restricted by the requirement that any injunction be issued by a court of competent jurisdiction.

History. Acts 1995, No. 623, § 1.

A.C.R.C. Notes. The Insurance Code of this state, referred to in this section, was originally enacted by Acts 1959, No. 148. Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

U.S. Code. The Liability Risk Reten-

tion Act of 1986, referred to in this section, is codified as 15 U.S.C. § 3901nt.

23-94-213. Duty of agents or brokers to obtain license.

A. Risk Retention Group Agents. Any person acting, or offering to act, as an agent or broker for a registered risk retention group which solicits members, sells insurance coverage, or otherwise does business in this state shall, before commencing any such activity, obtain a resident or nonresident risk retention group agent license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under §§ 23-64-101 et seq., 23-64-201 — 23-64-229, and the Producer Licensing Model Act, § 23-64-501 et seq., except as they conflict with the provisions of the Liability Risk Retention Act of 1986.

B. Purchasing Group Brokers.

(1) Any person acting, or offering to act, as an agent or broker for a registered purchasing group which solicits members, sells insurance

coverage, purchases coverage for its members located within the state, or otherwise doing business in this state shall, before commencing any such activity, obtain a resident or nonresident purchasing group broker license from the commissioner upon completion of the licensing provisions as to resident and nonresident agents or brokers under §§ 23-64-101 et seq., 23-64-201 — 23-64-229, and the Producer Licensing Model Act, § 23-64-501 et seq., except as they conflict with the provisions of the Liability Risk Retention Act of 1986, before securing the purchasing group's coverage with an authorized insurer or a registered risk retention group. This requirement shall not be applicable to property and casualty agents or brokers duly licensed by this state as to the authorized insurer or risk retention group issuing the purchasing group's coverage, so long as these licenses comply with other provisions of this chapter.

(2) Any person acting, or offering to act, as an agent or broker for a purchasing group registered in Arkansas and procuring insurance from an approved non-admitted surplus line insurer shall either:

(a) First obtain a property and casualty agent or broker's license or purchasing group broker's license from this state, prior to placing the group's coverage through a surplus line broker duly licensed by the State of Arkansas; or

(b) First obtain a resident Arkansas surplus line broker's license, or a nonresident Arkansas surplus line broker's license, prior to placing the group's coverage with the surplus line insurer.

(3) The provisions of this section shall be in conformity with the provisions of this subchapter, §§ 23-64-101 et seq., 23-64-201 — 23-64-229, the Producer Licensing Model Act, § 23-64-501 et seq., and the surplus line laws of this state, § 23-65-301 et seq., except as they conflict with the provisions of the Liability Risk Retention Act of 1986.

History. Acts 1995, No. 623, § 1; 2001, No. 580, § 24; 2001, No. 1555, § 18.

Amendments. The 2001 amendment by No. 580 substituted "§§ 23-64-101 ... 23-64-501" for "§ 23-64-101 et seq. and § 23-64-201 et seq." in (A), (B)(1), and (B)(3).

The 2001 amendment by No. 1555 deleted "restricted to registered purchasing groups only" following "broker's license" in (B)(2)(b).

U.S. Code. The Liability Risk Retention Act of 1986, referred to in this section, is codified as 15 U.S.C. § 3901nt.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-94-214. Binding effect of orders issued in United States District Court.

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state, or in all states or in any territory or possession of the United States, upon a finding that such a group is in hazardous financial or

financially impaired condition shall be enforceable in the courts of the state.

History. Acts 1995, No. 623, § 1.

23-94-215. Rules and regulations.

The commissioner may establish and from time to time amend such rules relating to risk retention groups as may be necessary or desirable to carry out the provisions of this subchapter.

History. Acts 1995, No. 623, § 1.

SUBCHAPTER 3 — EXEMPTIONS

SECTION.

23-94-301 — 23-94-303. [Repealed.]

23-94-301 — 23-94-303. [Repealed.]

Publisher's Notes. As to the repeal of this subchapter, see the Publisher's Notes at the beginning of this chapter.

CHAPTER 95

RISK-SHARING PLANS FOR PROPERTY AND CASUALTY INSURANCE

SECTION.

23-95-101. Purpose.

23-95-102. Construction.

23-95-103. Governing board.

23-95-104. Plan for coverage — Requirement.

SECTION.

23-95-105. Plan for coverage — Contents.

23-95-106. Information for individuals.

23-95-107. No liability in creating plan.

23-95-108. Rules and regulations.

Effective Dates. Acts 1987, No. 896, § 11: Apr. 13, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this state concerning the insurance matters covered by this Act are inadequate for the protection of the public.

Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

23-95-101. Purpose.

The purpose of this chapter is to provide for the establishment of risk-sharing plans for property or casualty insurance if the Insurance Commissioner determines that the insurance is not reasonably available in the voluntary market for the citizens of this state. This chapter is not intended to conflict with the provisions as to other risk-sharing

plans established under prior law or in the Arkansas Insurance Code and, in particular, the provisions of §§ 23-88-301 and 27-19-106.

History. Acts 1987, No. 896, § 1.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

originally enacted by Acts 1959, No. 148. Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-95-102. Construction.

This chapter shall be deemed cumulative of prior laws, and no prior law or part of a law shall be deemed to be in conflict with this chapter unless failure to so determine would prevent giving effect to an explicit provision of this chapter.

History. Acts 1987, No. 896, § 10.

23-95-103. Governing board.

There is created a governing board of seven (7) members to be appointed by the Insurance Commissioner which shall meet as necessary to review and prescribe operating procedures and rules to implement any plan promulgated pursuant to this chapter. The governing board shall be composed of the following members:

- (1) The Insurance Commissioner, who shall serve as chair;
- (2) Two (2) representatives from insurers licensed to operate in this state;
- (3) Two (2) representatives who are licensed insurance agents in this state; and
- (4) Two (2) consumer representatives.

History. Acts 1987, No. 896, § 6.

23-95-104. Plan for coverage — Requirement.

If the Insurance Commissioner finds, after a hearing, that in all or in any part of this state, any amount or kind of insurance authorized by §§ 23-62-104 and 23-62-105 is not reasonably available in the voluntary market and that the public interest requires the availability of that insurance, the commissioner shall direct insurers doing business within this state to prepare a voluntary plan which will provide that insurance coverage. The plan shall be submitted to the commissioner within the time he or she designates and, if approved by him or her, may be put into operation. If the plan is not approved by the commissioner, or if the plan is not submitted as required, the commissioner may promulgate a plan to provide insurance coverage for any risks in this state which are, based on reasonable underwriting standards, entitled to obtain coverage but are otherwise unable to obtain coverage in the voluntary market.

History. Acts 1987, No. 896, § 2.

23-95-105. Plan for coverage — Contents.

(a) Each plan promulgated or prepared pursuant to § 23-95-104 shall:

(1) Give consideration to:

- (A) The need for adequate and readily accessible coverage;
- (B) Optional methods of improving the market affected;
- (C) The inherent limitations of the insurance mechanism;
- (D) The need for reasonable underwriting standards; and
- (E) The requirement of reasonable loss prevention measures;

(2) Establish procedures that will create minimum interference with the voluntary market;

(3) Distribute the obligations imposed by the plan and any profits or losses experienced by the plan equitably and efficiently among the participating insurers;

(4) Establish procedures for applicants and participants to have their grievances reviewed by an impartial body. The filing and processing of a complaint or grievance pursuant to this section does not waive or stay the requirement for participation in the plan; and

(5) Establish a rating plan which shall be actuarially sound.

(b) Each plan may, on behalf of its participants:

(1) Issue policies of insurance to eligible applicants;

(2) Underwrite, adjust, and pay losses on insurance issued by the plan;

(3) Appoint a service company or companies to perform the functions enumerated in this subsection; and

(4) Obtain reinsurance for any part or all of its risks.

(c) Participation by the insurer in the losses and expenses of the plan shall be in the proportion that the direct written premiums of the insurer written in this state bears to the total aggregate written premium written in this state. Premiums which serve as the basis for participation in other risk-sharing plans established under prior law shall be excluded both from the insurer's direct written premium and the total aggregate direct written premium in determining participation in the losses and expenses of the plan.

(d) Each plan shall provide for:

(1) The method of classifying risks;

(2) The making and filing of rates which are not excessive, inadequate, or unfairly discriminatory and policy forms applicable to the various risks insured by the plan;

(3) The adjusting and processing of claims;

(4) The commission rates to be paid to agents or brokers for coverages written by the plan; and

(5) Any other insurance of investment functions that are necessary for the purpose of providing adequate and readily accessible coverage.

History. Acts 1987, No. 896, §§ 3-5.

23-95-106. Information for individuals.

Every participating insurer and agent shall provide to any person seeking the insurance available in each plan information about the services prescribed in the plan, including full information on the requirements and procedures for obtaining insurance under the plan.

History. Acts 1987, No. 896, § 7.

23-95-107. No liability in creating plan.

There shall be no liability on the part of and no cause of action shall arise against the Insurance Commissioner, his or her representatives, or any plan, its participants, or its employees for any good faith action taken by them in the performance of their powers and duties in creating any plan pursuant to this chapter.

History. Acts 1987, No. 896, § 8.

23-95-108. Rules and regulations.

The Insurance Commissioner shall have the authority to promulgate rules and regulations necessary to effectuate the purpose of this chapter.

History. Acts 1987, No. 896, § 9.

CHAPTER 96**ARKANSAS LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT****SECTION.**

- 23-96-101. Title.
- 23-96-102. Purpose.
- 23-96-103. Construction — Applicability.
- 23-96-104. Definitions.
- 23-96-105. Advertisement of association
act in insurance sales —
Notice to policy owners.
- 23-96-106. Scope of chapter.
- 23-96-107. Coverage.
- 23-96-108. Immunity.
- 23-96-109. Creation of the association —
Examination — Annual re-
port — Tax exemption —
Board of directors.
- 23-96-110. Powers and duties of associa-
tion.
- 23-96-111. Impaired insurers.
- 23-96-112. Insolvent insurers.

SECTION.

- 23-96-113. Authority of association when
proceeding under § 23-96-
111 or § 23-96-112.
- 23-96-114. Liability for benefits — As-
signment or subrogation of
rights.
- 23-96-115. Assessments — Tax credits.
- 23-96-116. Plan of operation.
- 23-96-117. Detection and prevention of
insolvencies or impair-
ments.
- 23-96-118. Duties and powers of the com-
missioner.
- 23-96-119. Distributions of ownership
rights.
- 23-96-120. Payment of premiums.
- 23-96-121. Reissuance of terminated cov-
erage.

Effective Dates. Acts 1989, No. 444, § 26: Mar. 9, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current insurance laws of this State as to protection of Arkansas policyholders of insolvent life and disability insurers are inadequate, and that the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that the term disability

insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-96-101. Title.

This chapter shall be known and cited as the "Arkansas Life and Health Insurance Guaranty Association Act".

History. Acts 1989, No. 444, § 1; 1997, No. 950, § 1; 2001, No. 1603, § 46.

substituted "Health" for "Disability" in the introductory language.

Amendments. The 2001 amendment

23-96-102. Purpose.

A. The purpose of this chapter is to protect, subject to certain limitations, the persons specified in § 23-96-107(A) against failure in the performance of contractual obligations under life and accident and health insurance policies and annuity contracts specified in § 23-96-107(B) because of the impairment or insolvency of the member insurer that issued the policies or contracts.

B. To provide this protection, an association of insurers is created to pay benefits and to continue coverages as limited herein, and members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

History. Acts 1989, No. 444, § 2; 1997, No. 950, § 1; 2001, No. 1603, § 47.

in (A), substituted "accident and health" for "disability."

Amendments. The 2001 amendment,

23-96-103. Construction — Applicability.

A. This chapter shall be construed to effect the purpose under § 23-96-102.

B. Nothing in this chapter shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

History. Acts 1989, No. 444, §§ 4, 14, 20; 1997, No. 950, § 1.

23-96-104. Definitions.

As used in this chapter:

A. "Account" means any of the two (2) accounts created under § 23-96-109.

B. "Association" means the Arkansas Life and Health Insurance Guaranty Association created under § 23-96-109.

C. "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

D. "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

E. "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the Association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the Association to member insurers.

F. "Commissioner" means the Insurance Commissioner of this state.

G. "Contractual obligations" means any obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under § 23-96-107.

H. "Covered policy" or "covered contract" means any policy or contract or portion of a policy or contract for which coverage is provided under § 23-96-107.

I. "Extra-contractual claims" shall include, for example, claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorney's fees and costs.

J. "Impaired insurer" means a member insurer which, after March 9, 1989, is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

K. "Insolvent insurer" means a member insurer which, after March 9, 1989, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

L. "Member insurer" means any insurer licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under § 23-96-107, and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

- (1) A hospital or medical service organization, whether profit or nonprofit;
- (2) A health maintenance organization;
- (3) A fraternal benefit society;

- (4) A mandatory state pooling plan;
- (5) A burial association;
- (6) An insurance exchange;
- (7) Prepaid funeral trusts;
- (8) An organization which has a certificate or license limited to the issuance of charitable gift annuities; or
- (9) Any entity similar to any of the above.

M. "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

N. "Owner" of a policy or contract and "policy owner" and "contract owner" means the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. The terms "owner", "contract owner", and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

O.(1) "Person" means any individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(2) It is the intent of the General Assembly that "person" shall include a claimant or beneficiary who is receiving annuity benefits as provided in §§ 11-9-210 and 23-96-114(B) and (F).

P. "Plan sponsor" means:

(1) The employer in the case of a benefit plan established or maintained by a single employer;

(2) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(3) In a case of a benefit plan established or maintained by two (2) or more employers or jointly by one (1) or more employers and one (1) or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

Q.(1) "Premiums" means amounts or considerations (by whatever name called) received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits.

(2)(a) "Premiums" does not include amounts or considerations received for any policies or contracts or for the portions of policies or contracts for which coverage is not provided under § 23-96-106, except that assessable premium shall not be reduced on account of § 23-96-106(A)(3), relating to interest limitations and § 23-96-114(A)(2), relating to limitations with respect to one (1) individual, one (1) participant, and one (1) contract owner.

(b) Provided, "premiums" shall not include:

(i) Any premiums in excess of one million dollars (\$1,000,000) on an unallocated annuity contract not issued under a governmental

retirement benefit plan (or its trustee) established under sections 401(k), 403(b), or 457 of the United States Internal Revenue Code; or

(ii) With respect to multiple non-group policies of life insurance owned by one (1) owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of one million dollars (\$1,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

R.(1) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the Association in its reasonable judgment by considering the following factors:

(a) The state in which the primary executive and administrative headquarters of the entity is located;

(b) The state in which the principal office of the chief executive officer of the entity is located;

(c) The state in which the board of directors (or similar governing person or persons) of the entity conducts the majority of its meetings;

(d) The state in which the executive or management committee of the board of directors (or similar governing person or persons) of the entity conducts the majority of its meetings;

(e) The state from which the management of the overall operations of the entity is directed; and

(f) In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors. However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

(2) The principal place of business of a plan sponsor of a benefit plan described in Subsection (P)(3) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

S. "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

T. "Resident" means a person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be an impaired insurer or a court

order that determines a member insurer to be an insolvent insurer, whichever occurs first. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business. Citizens of the United States that are either (i) residents of foreign countries, or (ii) residents of United States possessions, territories, or protectorates that do not have an association similar to the Association created by this chapter shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.

U. "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

V. "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

W. "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, an accident and health, or an annuity policy or contract.

X.(1) "Unallocated annuity contract" means an annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

(2) It is the intent of the General Assembly that an annuity contract as provided for in § 11-9-210, shall not be an "unallocated annuity contract".

History. Acts 1989, No. 444, § 5; 1991, No. 651, § 2; 1997, No. 950, § 1; 2001, No. 1603, §§ 48, 49; 2001, No. 1604, § 119.

Amendments. The 2001 amendment by No. 1603 substituted "Health" for "Disability" in (B); and substituted "an accident and health, or an" for "disability or" in (W).

The 2001 amendment by No. 1604 inserted (L)(8) and made related changes.

U.S. Code. Sections 401(k), 403(b) and 457 of the United States Internal Revenue Code, referred to in this section, are codified as 26 U.S.C. §§ 401(k), 403(b) and 457, respectively.

23-96-105. Advertisement of association act in insurance sales — Notice to policy owners.

A. No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the Arkansas Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter, except in conformity with the rules and regulations of the commissioner. In adopting such rules and regulations, the commissioner, in consultation

with the board of directors of the Association, shall take into consideration the following factors: the need of the public to have confidence in the financial soundness of insurance products offered for sale in this state, the financial integrity of member insurers doing business in this state, and the role of the Association in serving as a safety net for policyowners, contract owners, insureds, and beneficiaries of impaired or insolvent insurers in this state. Provided, however, that this section shall not apply to the Arkansas Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

B.(1)(a) Within one hundred eighty (180) days of March 9, 1989, the Association shall prepare a summary document describing the general purpose and current limitations of this chapter and complying with subsection (C) of this section.

(b) This document shall be submitted to the commissioner for approval.

(c) Sixty (60) days after receiving such approval, no insurer may deliver a policy or contract described in § 23-96-107(B) to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract except if § 23-96-107(C) applies.

(2)(a) The document should also be available upon request by a policy owner.

(b) The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract or the owner thereof is covered in the event of the impairment or insolvency of a member insurer.

(c) The description document shall be revised by the Association as amendments to this chapter may require.

(d) Failure to receive this document does not give the policy owner, contract owner, certificate holder, or insured any greater rights than those stated in this chapter.

C.(1) The document prepared under subsection (B) of this section shall contain a clear and conspicuous disclaimer on its face.

(2) The commissioner shall establish the form and content of the disclaimer.

(3) The disclaimer shall:

(a) State the name and address of the Arkansas Life and Health Insurance Guaranty Association and State Insurance Department;

(b) Prominently warn the policy or contract owner that the Arkansas Life and Health Insurance Guaranty Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations, exclusions, and conditioned on continued residence in this state;

(c) State the types of policies for which guaranty funds will provide coverage;

(d) State that the insurer and its agents are prohibited by law from using the existence of the Arkansas Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;

(e) State that the policy or contract owner should not rely on coverage under the Arkansas Life and Health Insurance Guaranty Association when selecting an insurer;

(f) Explain rights available and procedures for filing a complaint to a violation of any provisions of this chapter; and

(g) Provide other information as directed by the commissioner including but not limited to, sources of information about financial conditions of insurers provided that the information is not proprietary and is subject to disclosure under that state's public records law.

History. Acts 1989, No. 444, § 19; substituted "Health" for "Disability" in 1997, No. 950, § 1; 2001, No. 1603, §§ 50, (A), (C)(3)(a), (C)(3)(b), (C)(3)(d) and 51. (C)(3)(e).

Amendments. The 2001 amendment

23-96-106. Scope of chapter.

A. This chapter shall not provide coverage for:

(1) A portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract owner;

(2) A portion of a policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(3) A policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:

(a) Averaged over the period of four (4) years prior to the date on which the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four (4) years before the member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and

(b) On and after the date on which the Association becomes obligated with respect to such policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's Corporate Bond Yield Average as most recently available;

(4) A portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, accident and health, or annuity benefits to its employees, members, or others to the extent that such plan or program is self-funded or uninsured, including but not limited to, benefits payable by an employer, association, or other person under:

(a) A multiple employer welfare arrangement as defined in section 514 of the Employee Retirement Income Security Act of 1974, as amended;

- (b) A minimum premium group insurance plan;
- (c) A stop-loss group insurance plan; or
- (d) An administrative services only contract;
- (5) A portion of a policy or contract to the extent that it provides for dividends or experience rating credits, voting rights, or payment of any fees or allowances to any person, including the policy or contract owner, in connection with the service to or administration of such policy or contract;
- (6) A policy or contract issued in this state by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in this state;
- (7) An unallocated annuity contract issued to or in connection with a benefit plan protected under the Pension Benefit Guaranty Corporation regardless of whether the Pension Benefit Guaranty Corporation has yet become liable to make any payments with respect to the benefit plan;
- (8) A portion of an unallocated annuity contract that is not owned by a benefit plan (directly or in trust) or a government lottery or issued to a collective investment trust or similar pooled fund offered by a bank or other financial institution;
- (9) Any policy or contract written on the mutual assessment plan or stipulated premium plan prior to January 1, 1968, for which no statutory legal reserves are required;
- (10) A portion of a policy or contract to the extent that the assessments required by § 23-96-115 with respect to the policy or contract are preempted by federal or state law;
- (11) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including without limitation:
 - (a) Claims based on marketing materials;
 - (b) Claims based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements;
 - (c) Misrepresentations of or regarding policy benefits;
 - (d) Extra-contractual claims; or
 - (e) A claim for penalties or consequential or incidental damages; and
- (12) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustees, which in each case is not an affiliate of the member insurer.

B. The protection provided by this chapter shall not apply where any guaranty protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

History. Acts 1989, No. 444, §§ 3, 8; 1997, No. 950, § 1; 2001, No. 1603, § 52; 2001, No. 1604, § 120.

Amendments. The 2001 amendment by No. 1603 substituted "accident and health" for "disability" in (A)(4).

The 2001 amendment by No. 1604 rewrote (A)(3).

U.S. Code. Section 514 of the Employee Retirement Income Security Act of 1974, referred to in this section, is codified as 29 U.S.C. § 1144.

23-96-107. Coverage.

A. This chapter shall provide coverage for the policies and contracts specified in subsection (B) of this section to:

(1) Persons who, regardless of where they reside, except for nonresident certificate holders under group policies or contracts, are the beneficiaries, assignees, or payees of the persons covered under paragraph (2) of this subsection;

(2) Persons who are owners of or certificate holders under such policies or contracts (other than unallocated annuity contracts and structured settlement annuities) and in each case who:

(a) Are residents; or

(b) Are not residents, but only under all of the following conditions:

(i) The insurer that issued the policies or contracts is domiciled in this state;

(ii) The states in which the persons reside have associations similar to the association created by this chapter;

(iii) The persons are not eligible for coverage by an association in any other state due to the fact that the insurer was not licensed in the state at the time specified in the state's guaranty association law;

(3) For unallocated annuity contracts specified in subsection (B) of this section, paragraphs (1) and (2) shall not apply, and this chapter shall (except as provided in paragraphs (5) and (6) of this subsection) provide coverage to:

(a) Persons who are the owners of the unallocated annuity contracts if such contracts are issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; and

(b) Persons who are owners of unallocated annuity contracts issued to or in connection with government lotteries if the owners are residents;

(4) For structured settlement annuities specified in subsection (B) of this section, paragraphs (1) and (2) shall not apply, and this chapter shall (except as provided in paragraphs (5) and (6) of this subsection) provide coverage to a person who is a payee under a structured settlement annuity (or beneficiary of a payee if the payee is deceased), if the payee:

(a) Is a resident, regardless of where the contract owner resides, or

(b) Is not a resident, but only under both of the following conditions:

(i)(I) The contract owner of the structured settlement annuity is a resident, or

(II) The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state;

(III) The state in which the contract owner resides has an association similar to the Association created by this chapter; and

(ii) Neither the payee (or beneficiary) nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides;

(5) This chapter shall not provide coverage for:

(a) A person who is a payee (or beneficiary) of a contract owner resident of this state, if the payee (or beneficiary) is afforded any coverage by the association of another state; or

(b) A person covered in paragraph (A)(3) of this section if any coverage is provided by the association of another state to such person;

(6) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provision of this paragraph (A)(6) in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only one (1) association.

B. This chapter shall provide coverage to the persons specified in subsection (A) for direct, nongroup life, accident and health, or annuity policies or contracts, and supplemental contracts to any of these, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include but are not limited to guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, allocated funding agreements, structured settlement annuities, annuities issued to or in connection with government lotteries, and any immediate or deferred annuity contracts.

C.(1) No insurer or agent may deliver a policy or contract described in subsection (B) of this section and excluded under § 23-96-106(A)(1) from coverage under this chapter unless the insurer or agent, prior to or at the time of delivery, gives the policy or contract holder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the Arkansas Life and Health Insurance Guaranty Association.

(2) The commissioner shall by rule specify the form and content of the notice.

History. Acts 1989, No. 444, §§ 3, 19; 1997, No. 950, § 1; 2001, No. 1603, §§ 53, 54.

Amendments. The 2001 amendment

substituted “accident and health” for “disability” in (B); and substituted “Health” for “Disability” in (C).

23-96-108. Immunity.

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the Association or its agents or employees, members of the board of directors, or the commissioner or his representatives for any action or omission by them in the performance of their powers and duties under this chapter. Such immunity shall extend to the participation in any organization of one (1) or more other state associations of similar purposes and to any such organization and its agents or employees.

History. Acts 1989, No. 444, § 17; 1997, No. 950, § 1.

23-96-109. Creation of the association — Examination — Annual report — Tax exemption — Board of directors.

A.(1) There is created a nonprofit legal entity to be known as the “Arkansas Life and Health Insurance Guaranty Association”. All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance in this state. The Association shall perform its functions under the plan of operation established and approved under § 23-96-116 and shall exercise its powers through a board of directors established under subsection (B) of this section.

(2) The Association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state. Meetings or records of the Association may be opened to the public upon majority vote of the board of directors of the Association.

(3) The Association shall be subject to examination and regulation by the commissioner.

(4) The board of directors shall submit to the commissioner each year, not later than one hundred twenty (120) days after the Association’s fiscal year, a financial report in a form approved by the commissioner and a report of its activities during the preceding fiscal year. Upon request of a member insurer, the Association shall provide the member insurer with a copy of the report.

(5) For purposes of administration and assessment, the Association shall maintain two (2) accounts:

(a) The life insurance and annuity account, which includes the following subaccounts:

(i) Life insurance account;

(ii) Annuity account which shall include annuity contracts owned by a governmental retirement plan (or its trustee) established under

section 401(k), section 403(b), or section 457 of the United States Internal Revenue Code, but shall otherwise exclude unallocated annuities; and

(iii) Unallocated annuity account, which shall exclude contracts owned by a governmental retirement benefit plan (or its trustee) established under section 401(k), section 403(b), or section 457 of the United States Internal Revenue Code;

(b) The accident and health insurance account.

(6) The Association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

B.(1)(a) The board of directors of the Association shall consist of not less than five (5) nor more than nine (9) member insurers serving terms as established in the plan of operation.

(b) The members of the board shall be selected by member insurers subject to the approval of the commissioner.

(c) Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner.

(2) In approving selections to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the Association for expenses incurred by them as members of the board of directors, but members of the board shall not otherwise be compensated by the Association for their services.

History. Acts 1989, No. 444, §§ 6, 7, 15, 16; 1997, No. 950, § 1; 2001, No. 1603, §§ 55, 56.

Publisher's Notes. Acts 1989, No. 444, § 7, provided, in part, that the commissioner may appoint the initial members of the association following the guidelines in subdivision (B)(2) of this section.

Amendments. The 2001 amendment

substituted "Health" for "Disability" in (A)(1); and substituted "accident and health" for "disability" in (A)(5)(b).

U.S. Code. Sections 401(k), 403(b) and 457 of the United States Internal Revenue Code, referred to in this section, are codified as 26 U.S.C. §§ 403(b), 401(k), and 457, respectively.

23-96-110. Powers and duties of association.

A. In addition to the rights and powers elsewhere in this chapter, the Association may:

(1) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(2) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under § 23-96-115 and to settle claims or potential claims against it;

(3) Borrow money to effect the purposes of this chapter. Any notes or other evidence of indebtedness of the Association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(4) Employ or retain such persons as are necessary or appropriate to handle the financial transactions of the Association and to perform such other functions as become necessary or proper under this chapter;

(5) Take such legal action as may be necessary or appropriate to avoid or recover payment of improper claims;

(6) Exercise, for the purpose of this chapter and to the extent approved by the commissioner, the powers of a domestic life or accident and health insurer, but in no case may the Association issue insurance policies or annuity contracts other than those issued to perform its obligations under this chapter;

(7) Organize itself as a corporation or in other legal form permitted by the laws of this state;

(8) Request information from a person seeking coverage from the Association in order to aid the Association in determining its obligations under this chapter with respect to the person, and the person shall promptly comply with the request; and

(9) Take other necessary or appropriate action to discharge its duties and obligations under this chapter or to exercise its powers under this chapter.

B. The Association may render assistance and advice to the commissioner, upon his or her request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

C.(1) The Association shall have standing to appear or intervene before any court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the Association is or may become obligated under this chapter or with jurisdiction over any person or property against whom the Association may have rights through subrogation or otherwise. Provided, at its option, the Association may appear solely for the purpose of receiving copies of all pleadings and notices and attending hearings without otherwise becoming a party to the proceeding. Such standing shall extend to all matters germane to the powers and duties of the Association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations.

(2) The Association shall also have the right to appear or intervene before a court or agency in another state with jurisdiction over an impaired or insolvent insurer for which the Association is or may become obligated or with jurisdiction over any person or property against whom the Association may have rights through subrogation or otherwise.

D. The Association may join an organization of one (1) or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the Association.

E.(1)(a) Records shall be kept of all meetings of the board of directors to discuss the activities of the Association in carrying out its powers and duties under §§ 23-96-111 — 23-96-114 and 23-96-120.

(b) The records of the Association with respect to an impaired or insolvent insurer shall not be disclosed prior to the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction.

(2) Nothing in this subsection shall limit the duty of the Association to render a report of its activities under § 23-96-109(A)(4).

F. At any time within one (1) year after the date on which the Association becomes responsible for the obligations of a member insurer (the coverage date), the Association may elect to succeed to the rights and obligations of the member insurer, that accrue on or after the coverage date and that relate to contracts covered (in whole or in part) by the Association, under any one (1) or more indemnity reinsurance agreement(s) entered into by the member insurer as a ceding insurer and selected by the Association; provided, however, that the Association may not exercise any such election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election shall be effected by a notice to the receiver, rehabilitator, or liquidator and to the affected reinsurer(s). If the Association makes an election, paragraphs (1)-(4) of this subsection shall apply with respect to the agreements selected by the Association:

(1) The Association shall be responsible for all unpaid premiums due under the agreement(s) (for periods both before and after the coverage date), and shall be responsible for the performance of all other obligations to be performed after the coverage date, in each case which relate to contracts covered (in whole or in part) by the Association. The association may charge contracts covered in part by the Association through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the Association;

(2) The Association shall be entitled to any amounts payable by the reinsurer under the agreement(s) with respect to losses or events that occur in periods after the coverage date and that relate to contracts covered by the Association (in whole or in part), provided that, upon receipt of any such amounts, the Association shall be obliged to pay to the beneficiary under the policy or contract on account of which the amounts were paid a portion of the amount equal to the excess of:

(a) The amount received by the Association; or

(b) The benefits paid by the Association on account of the policy or contract less the retention of the impaired or insolvent member insurer applicable to the loss or event;

(3) Within thirty (30) days following the Association's election, the Association and each indemnity reinsurer shall calculate the net balance due to or from the Association under each such reinsurance agreement(s) as of the date of the Association's election, which calculation shall give full credit to all items paid by either the member insurer (or its receiver, rehabilitator, or liquidator) or the indemnity reinsurer

during the period between the coverage date and the date of the Association's election. Either the Association or indemnity reinsurer shall pay the net balance due the other within five (5) days of the completion of the aforementioned calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the Association pursuant to paragraph (2) of this subsection, the receiver, rehabilitator, or liquidator shall remit the same to the Association as promptly as practicable.

(4) If the Association, within sixty (60) days of the election, pays the premiums due for the period both before and after the coverage date that relates to contracts covered by the Association (in whole or in part), the reinsurer shall not be entitled to terminate the reinsurance agreement(s) (insofar as the agreement(s) relate to contracts covered by the Association (in whole or in part)) and shall not be entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the Association.

G. In the event the Association transfers its obligations to another insurer, and if the Association and the other insurer agree, the other insurer shall succeed to the rights and obligations of the Association under subsection (F) of this section effective as of the date agreed upon by the Association and the other insurer and regardless of whether the Association has made the election referred to above in subsection (F) provided that:

(1) The indemnity reinsurance agreement(s) shall automatically terminate for new reinsurance unless the indemnity reinsurer and the other insurer agree to the contrary;

(2) The obligations described in the proviso to paragraph (F)(2) of this section shall no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party insurer; and

(3) This subsection (G) shall not apply if the Association has previously expressly determined in writing that it will not exercise the election referred to in subsection (F) of this section.

H. The provisions of subsection (F) of this section shall supersede the provisions of any law of this state or of any affected reinsurance agreement(s) that provide for or require any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent member insurer. The receiver, rehabilitator, or liquidator shall remain entitled to any amounts payable by the reinsurer under the reinsurance agreement(s) with respect to losses or events that occur in periods prior to the coverage date (subject to applicable setoff provisions).

I. Except as otherwise expressly provided above, nothing herein shall alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent member insurer. Nothing herein shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. Nothing herein shall give a policy owner or beneficiary an independent cause of action

against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

J. The board of directors of the Association shall have discretion and may exercise reasonable business judgment to determine the means by which the Association is to provide the benefits of this chapter in an economical and efficient manner and may provide additional or alternative coverages and benefits in appropriate situations.

K. Where the Association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the Association's obligations under this chapter, the person shall not be entitled to benefits from the Association in addition to or other than those provided under the plan or arrangement.

L. Venue in a suit against the Association arising under this chapter shall be in Pulaski County. The Association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

History. Acts 1989, No. 444, §§ 8, 14; 1997, No. 950, § 1; 2001, No. 1603, § 57; 2001, No. 1604, § 121.

substituted "accident and health" for "disability" in (A)(6); and inserted the second sentence in (C)(1).

Amendments. The 2001 amendment

23-96-111. Impaired insurers.

If a member insurer is an impaired insurer, the Association may, in its discretion and subject to any conditions imposed by the Association that do not impair the contractual obligations of the impaired insurer and that are approved by the commissioner:

(1) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; or

(2) Provide such moneys, pledges, loans, notes, guarantees, or other means as are proper to effectuate paragraph (1) of this section and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (1) of this section.

History. Acts 1989, No. 444, §§ 8, 11; 1997, No. 950, § 1.

23-96-112. Insolvent insurers.

A. If a member insurer is an insolvent insurer, the Association shall, in its discretion, either:

(1)(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

(b) Assure payment of the contractual obligations of the insolvent insurer; and

(c) Provide such moneys, pledges, loans, notes, guarantees, or other means as are reasonably necessary to discharge such duties; or

(2) Provide benefits and coverages in accordance with § 23-96-113.

B. All proceedings in which the insolvent insurer is a party in any court in this state shall be stayed sixty (60) days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the Association on any matters germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default, the Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

History. Acts 1989, No. 444, §§ 8, 18;
1997, No. 950, § 1.

23-96-113. Authority of association when proceeding under § 23-96-111 or § 23-96-112.

A.(1) When proceeding under § 23-96-111 or § 23-96-112(A)(2), the Association shall:

(a) With respect to life and accident and health insurance policies and annuities, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred:

(i) With respect to group policies and contracts, not later than the earlier of the next renewal date under such policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the Association becomes obligated with respect to such policies and contracts;

(ii) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date, if any, under such policies or contracts or one (1) year, but in no event less than thirty (30) days, from the date on which the Association becomes obligated with respect to such policies or contracts;

(b) Make diligent efforts to provide all known insureds or annuitants (for non-group policies and contracts) or group policy owners with respect to group policies and contracts thirty (30) days' notice of the termination (pursuant to this paragraph A(1)) of the benefits provided;

(c) With respect to non-group life and accident and health insurance policies and annuities covered by the Association, make available to each known insured or annuitant, or owner if other than the insured or annuitant, and with respect to an individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (2)(a) of this subsection, if the insureds or annuitants had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any

provisions of the policy or annuity or had a right only to make changes in premium by class.

(2)(a) In providing the substitute coverage required under paragraph (1)(c) of this subsection, the Association may offer either to reissue the terminated coverage or to issue an alternative policy.

(b) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(c) The Association may reinsure any alternative or reissued policy;

(3)(a) Alternative policies adopted by the Association shall be subject to the approval of the domiciliary insurance commissioner and the receivership court. The Association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(b) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The Association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(c) Any alternative policy issued by the Association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the Association.

B. When proceeding under § 23-96-111 or § 23-96-112(A) with respect to a policy or contract carrying guaranteed minimum interest rates, the Association shall assure the payment or crediting of a rate of interest consistent with § 23-96-106(A)(3).

C. In carrying out its duties under §§ 23-96-111 and 23-96-112(A), the Association may:

(1) Subject to approval by a court in this state, impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the Association finds that the amounts which can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the Association's duties under this chapter or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens to be in the public interest;

(2) Subject to approval by a court in this state, impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on

payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the Association may defer the payment of cash values, policy loans or other rights by the Association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the Association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(3) A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or in a reciprocal state, pursuant to § 23-68-115, shall be promptly paid to the Association. The Association (i) shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the Association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency and (ii) shall remit to the domiciliary receiver the amount so paid to the Association and retained pursuant to clause (i). Any amount so paid to the Association and retained by it pursuant to clause (i) shall be treated as a distribution of estate assets pursuant to § 23-68-126 or similar provision of the state of domicile of the impaired or insolvent insurer.

D. In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under § 23-96-111 or § 23-96-112(A), the Association, subject to approval of the receivership court, may issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(1) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for (i) a fixed rate or (ii) payments of dividends with minimum guarantees or (iii) a different method for calculating interest or changes in value;

(2) There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract; and

(3) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

History. Acts 1989, No. 444, § 8; 1997, No. 950, § 1; 2001, No. 1603, §§ 58, 59; 2001, No. 1604, § 122.

Amendments. The 2001 amendment by No. 1603 substituted "accident and

health" for "disability" in (A)(1)(a) and (A)(1)(c).

The 2001 amendment by No. 1604 added (D).

23-96-114. Liability for benefits — Assignment or subrogation of rights.

A. The benefits that the Association may become obligated to cover shall in no event exceed the lesser of:

(1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer; or

(2)(a) With respect to any one (1) life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars (\$300,000) in life insurance death benefits or net cash surrender and net cash withdrawal values for life insurance;

(ii) Three hundred thousand dollars (\$300,000) in accident and health insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) Three hundred thousand dollars (\$300,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

(b) With respect to each individual participating in a governmental retirement benefit plan established under section 401(k), section 403(b), or section 457, of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate three hundred thousand dollars (\$300,000) in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(c) With respect to any one (1) contract holder, one million dollars (\$1,000,000) in unallocated annuity contract benefits, irrespective of the number of contracts held by that contract holder.

B.(1) Provided, however, that in no event shall the Association be liable to expend more than the three hundred thousand dollars (\$300,000) in the aggregate with respect to any one life under §§ 23-96-106, 23-96-107, and this section.

(2) The limitations set forth in this subsection are limitations on the benefits for which the Association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the Association pursuant to its subrogation and assignment rights.

(3) In performing its obligations to provide coverage under § 23-96-111, the Association shall not be required to guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

C.(1) Any person receiving benefits under this chapter shall be deemed to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from or otherwise relating to, the covered policy or contract to the Association to the extent of the benefits received because of this chapter, whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative coverages. The Association may require an assignment to it of such rights and cause of action by any payee, policy, or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this chapter upon such person.

(2) The subrogation rights of the Association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter.

(3) In addition to paragraphs (1) and (2) of this subsection, the Association shall have all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired or insolvent insurer or owner, beneficiary, or payee of a policy or contract with respect to such policy or contracts.

(4) If the preceding provisions of this subsection are invalid or ineffective with respect to any person or claim for any reason, the amount payable by the Association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies (or portion thereof) covered by the Association.

(5) If the Association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the Association has rights as described in the preceding paragraphs of this subsection, the person shall pay to the Association the portion of the recovery attributable to the policies (or portion thereof) covered by the Association.

D.(1) For the purpose of carrying out its obligations under this chapter, the Association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to subsection (C) of this section. Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this chapter.

(2) "Assets attributable to covered policies", as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

E. As a creditor of the impaired or insolvent insurer as established in subsection (D) of this section and consistent with § 23-68-126, the

Association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available, to reimburse it, as a credit against contractual obligations under this chapter. If the liquidator has not, within one hundred twenty (120) days of a final determination of insolvency of an insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the Association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.

F. It is the intent of the General Assembly that the coverage provided through the Arkansas Life and Health Insurance Guaranty Association for any annuity contract executed pursuant to § 11-9-210 shall be the lesser of the contractual obligations of the insurer or one hundred thousand dollars (\$100,000) in the present value of annuity benefits including net cash surrender and net cash withdrawal values as provided in subsection (A) of this section;

G. It is the intent of the General Assembly that coverage provided by the Arkansas Life and Health Insurance Guaranty Association for annuity contracts executed pursuant to § 11-9-210 shall not be affected by the fact that the annuity payments are sent to the Workers' Compensation Commission for distribution to the claimants and beneficiaries, and that any funds provided by the Arkansas Life and Health Insurance Guaranty Association for payment to claimants or beneficiaries for whom annuity contracts are executed under § 11-9-210 shall be sent to the Workers' Compensation Commission for distribution to claimants or beneficiaries.

History. Acts 1989, No. 444, §§ 3, 8, 14; 1991, No. 651, § 2; 1997, No. 950, § 1; 2001, No. 1603, §§ 60-62; 2001, No. 1604, § 123.

Publisher's Notes. Subsection A.(2)(a)(ii) was amended by Acts 2001, Nos. 1603 and 1604. The amendment by Acts 2001, No. 1604, was deemed to supersede the amendment by Acts 2001, No. 1603.

As amended by Acts 2001, No. 1603, subsection A.(2)(a)(ii) was amended to read as follows:

"A.(2)(a)(ii) One hundred thousand dollars (\$100,000) in accident and health insurance benefits, including any net cash surrender and net cash withdrawal values;"

Amendments. The 2001 amendment by No. 1603 substituted "accident and health" for "disability" in (A)(2)(a)(ii); and substituted "Health" for "Disability" in (F) and (G).

The 2001 amendment by No. 1604 substituted "three hundred thousand dollars (\$300,000)" for "one hundred thousand dollars (\$100,000)" in (A)(2)(a)-(b); and substituted "number of contracts" for "number of such contracts" in (A)(2)(c).

U.S. Code. Sections 401(k), 403(b), and 457 of the United States Internal Revenue Code referred to in this section are codified as 26 U.S.C. §§ 401(k), 403(b), and 457, respectively.

23-96-115. Assessments — Tax credits.

A.(1) For the purpose of providing the funds necessary to carry out the powers and duties of the Association, the Association's board of

directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board of directors finds necessary.

(2) Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at ten percent (10%) per annum on and after the due date.

B. There shall be two (2) classes of assessments, as follows:

(1) Class A assessments shall be authorized and called for the purpose of meeting administrative and legal costs and other expenses. Class A assessments may be authorized and called whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the Association under §§ 23-96-106(B), 23-96-110 — 23-96-114, and 23-96-120 with regard to an impaired or an insolvent insurer.

C.(1)(a) The amount of a Class A assessment shall be determined by the board of directors and may be authorized and called on a pro rata or non-pro rata basis. If pro rata, the board of directors may provide that it be credited against future Class B assessments. The total of all non-pro rata assessments shall not exceed one hundred fifty dollars (\$150) per member insurer in any one (1) calendar year.

(b) The amount of a Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board of directors in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer or policies or contracts covered by each account for the three (3) most recent calendar years for which information is available preceding the year in which the insurer became insolvent (or in the case of an assessment with respect to an impaired insurer, the three (3) most recent calendar years for which information is available preceding the year in which the insurer became impaired) bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the Association with respect to an impaired or insolvent insurer shall not be authorized or called until necessary to implement the purpose of this chapter.

D. Classification of assessments under subsection (B) of this section and computation of assessments under subsection (C) of this section shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty (180) days after the assessment is authorized.

E. The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board of directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the Association.

F.(1)(a) Subject to the provisions of paragraph (1)(b) of this subsection, the total of all assessments authorized by the Association with respect to a member insurer for each subaccount of the life insurance and annuity account and for the accident and health account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's average annual premiums received in this state on the policies and contracts covered by the subaccount or account during the three (3) calendar years preceding the year in which the insurer became an impaired or insolvent insurer.

(b) If two (2) or more assessments are authorized in one (1) calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in paragraph (1)(a) of this subsection shall be equal and limited to the higher of the three-year average annual premiums for the applicable subaccount or account as calculated pursuant to this section.

(c) If the maximum assessment, together with the other assets of the Association in any account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the Association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(2) The board of directors may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(3) If the maximum assessment for any subaccount of the life and annuity account in any one (1) year does not provide an amount sufficient to carry out the responsibilities of the Association, then pursuant to paragraph (C)(2) of this section, the board of directors shall assess the other subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in paragraph (1) of this subsection.

G. The board of directors may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board of directors finds is

necessary to carry out during the coming year the obligations of the Association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future losses claims.

H. It shall be proper for any member insurer, in determining its premium rates and policyholder dividends as to any kind of insurance within the scope of this chapter, to consider the amount reasonably necessary to meet its assessment obligations under this chapter.

I.(1) The Association shall issue to each insurer paying an assessment under this chapter, other than Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid.

(2) All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

(3) A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

J.(1)(a) A member insurer may offset against its premium tax liability to this state an assessment described in subsection (I) of this section to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid.

(b) In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(2)(a) Any sums which are acquired by refund, pursuant to subsection (G) of this section, from the Association by member insurers and which have theretofore been offset against premium taxes as provided in paragraph (1)(a) of this subsection, shall be paid by such insurers to this state in such manner as the tax authorities may require.

(b) The Association shall notify the commissioner that such refunds have been made.

History. Acts 1989, No. 444, §§ 9, 13; substituted "accident and health" for "disability" in (F)(1)(a).
1997, No. 950, § 1; 2001, No. 1603, § 63.

Amendments. The 2001 amendment

23-96-116. Plan of operation.

A.(1) The Association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments thereto shall become effective upon the commissioner's written approval or unless he has not disapproved it within thirty (30) days.

(2) If the Association fails to submit a suitable plan of operation within one hundred twenty (120) days following March 9, 1989, or if at any time thereafter the Association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the Association and approved by the commissioner.

B. All member insurers shall comply with the plan of operation.

C. The plan of operation shall, in addition to requirements enumerated elsewhere in this chapter:

(1) Establish procedures for handling the assets of the Association;

(2) Establish the amount and method of reimbursing members of the Association's board of directors under § 23-96-109(B);

(3) Establish regular places and times for meetings, including telephone conference calls of the Association's board of directors;

(4) Establish procedures for records to be kept of all financial transactions of the Association, its agents, and the Association's board of directors;

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner;

(6) Establish any additional procedures for assessments under § 23-96-115;

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

D.(1) The plan of operation may provide that any or all powers and duties of the Association, except those under §§ 23-96-114(C)(3) and 23-96-115, may be delegated to the State Insurance Department or to a corporation, association, organization, or other entity which performs or will perform functions similar to those of this association, or its equivalent, in two (2) or more states. Such a corporation, association, organization, or other entity, including, as applicable, the State Insurance Department, shall be reimbursed for any payments made on behalf of the Association and shall be paid for its performance of any function of the Association.

(2) A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, organization or other entity, including the State Insurance Department, which extends protection not substantially less favorable and effective than that provided by this chapter.

History. Acts 1989, No. 444, § 10;
1997, No. 950, § 1.

23-96-117. Detection and prevention of insolvencies or impairments.

To aid in the detection and prevention of insurer insolvencies or impairments,

A. It shall be the duty of the commissioner:

(1)(a) To notify the commissioners of all the other states, territories of the United States, and the District of Columbia when he takes any of the following actions against a member insurer:

(i) Revocation of license;

(ii) Suspension of license; or

(iii) Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policy owners or creditors.

(b) Such notice shall be mailed to all commissioners within thirty (30) days following the action taken or the date on which such action occurs.

(2)(a) To report to the Association's board of directors when he has taken any of the actions set forth in paragraph (1) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state.

(b) Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

(3) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member insurer that such insurer may be an impaired or insolvent insurer.

(4)(a) To furnish to the board of directors the National Association of Insurance Commissioners' Insurance Regulatory Information System (IRIS) ratios and listings of companies not included in the ratios developed by the National Association of Insurance Commissioners, and the board of directors may use the information contained therein in carrying out its duties and responsibilities under this section.

(b) Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

B. The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance business in this state.

C.(1) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state.

(2) Such reports and recommendations shall not be considered public documents.

D. The board of directors may, upon majority vote, notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

E. The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

History. Acts 1989, No. 444, § 12;
1997, No. 950, § 1.

23-96-118. Duties and powers of the commissioner.

In addition to the duties and powers enumerated elsewhere in this chapter,

A. The commissioner shall:

(1) Upon request of the Association's board of directors, provide the Association with a statement of the premiums in this and any other appropriate states for each member insurer;

(2)(a) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time.

(b) Notice to the impaired insurer shall constitute notice to its shareholders, if any.

(c) The failure of the insurer to promptly comply with such demand shall not excuse the Association from the performance of its powers and duties under this chapter;

(3) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

B.(1) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation.

(2) As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars (\$100) per month.

C. A final action of the board of directors or the Association may be appealed to the commissioner by any member insurer if such appeal is taken within sixty (60) days of its receipt of notice of the final action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the Association and available to meet Association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member insurer. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction in accordance with the laws of this state that apply to actions or orders of the commissioner.

D. If the Association fails to act within a reasonable period of time as provided in §§ 23-96-112(A), 23-96-113, and 23-96-120, the commissioner shall have the powers and duties of the Association under this chapter with respect to impaired or insolvent insurers.

History. Acts 1989, No. 444, §§ 8, 11; 1997, No. 950, § 1.

23-96-119. Distributions of ownership rights.

A.(1) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders, and policy owners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such determination, consideration shall be given to the welfare of the policy owners of the continuing or successor insurer.

(2) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the Association with interest thereon for funds expended in carrying out its powers and duties under §§ 23-96-111 — 23-96-114 and 23-96-120 with respect to such insurer have been fully recovered by the Association.

B.(1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five (5) years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (2)-(4) of this subsection.

(2) No such distribution shall be recoverable if the insurer shows that, when paid, the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3)(a) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received.

(b) Any person who was an affiliate that controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions he would have received if they had been paid immediately.

(c) If two (2) or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer.

(5) If any person liable under paragraph (3) of this subsection is insolvent, all its affiliates that controlled it at the time the distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

History. Acts 1989, No. 444, § 14; 1997, No. 950, § 1.

23-96-120. Payment of premiums.

A. Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage shall terminate the Association's obligations under such policy or coverage under this chapter with respect to such policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of the chapter.

B. Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the Association, and the Association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

History. Acts 1989, No. 444, § 8; 1997, No. 950, § 1.

23-96-121. Reissuance of terminated coverage.

A. If the Association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the Association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the domiciliary commissioner and the receivership court.

B. The Association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date such coverage or policy is replaced by another similar policy by the policy owner, the insured, or the Association.

History. Acts 1989, No. 444, § 8; 1997, No. 950, § 1.

CHAPTER 97

LONG-TERM CARE INSURANCE

SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. LONG-TERM CARE INSURANCE ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS.

[Reserved]

SUBCHAPTER 2 — LONG-TERM CARE INSURANCE ACT

SECTION.

- 23-97-201. Short title.
- 23-97-202. Purpose.
- 23-97-203. Definitions.
- 23-97-204. Scope.
- 23-97-205. Required compliance.
- 23-97-206. Administrative procedures.
- 23-97-207. Group long-term care insurance.
- 23-97-208. Disclosure and performance

SECTION.

- standards for long-term care insurance.
- 23-97-209. Preexisting condition.
- 23-97-210. Prior hospitalization or institutionalization.
- 23-97-211. Outline of coverage.
- 23-97-212. Certificates.
- 23-97-213. Right to return — Free look.

Effective Dates. Acts 1989, No. 642, § 9; Mar. 17, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that the laws of this State concerning the insurance matters covered in the subject of this Act are inadequate for the protection of the public and the immediate passage of this Act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 901, § 52: Apr. 6, 1993. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the present laws addressed in this omnibus Act on workers’ compensation benefits and insurance licensure and other insurance regulatory issues are inadequate for the protection of the Arkansas public and immediate passage of this Act is necessary in order to provide for the protection of the public. Therefore, an emergency is hereby declared to exist and this omnibus Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 517, § 11: July 1, 1997. Emergency clause provided: “It is hereby

determined by the General Assembly of the State of Arkansas that the current provisions under Arkansas law for the regulation of long-term care insurance are not in accord with provisions of Federal law; and this act is immediately necessary to remedy that problem. Therefore an emergency is hereby declared to exist and this act being necessary for the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: “It is found and determined by the Eighty-third General Assembly that the term disability insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

RESEARCH REFERENCES

UALR L.J. Survey, Insurance, 12
UALR L.J. 643.

23-97-201. Short title.

This subchapter may be known and cited as the “Long-Term Care Insurance Act”.

History. Acts 1989, No. 642, § 3.

23-97-202. Purpose.

The purpose of this subchapter is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

History. Acts 1989, No. 642, § 1.

23-97-203. Definitions.

As used in this subchapter:

(1) “Applicant” means:

(A) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and

(B) In the case of a group long-term care insurance policy, the proposed certificate holder;

(2) “Certificate” means any certificate of insurance or evidence of coverage issued to a resident of this state regardless of the state in which the policy was issued;

(3) “Commissioner” means the Insurance Commissioner;

(4) “Group long-term care insurance” means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(A) One (1) or more employers or labor organizations, or to a trust or to the trustees of a fund established by one (1) or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organization; or

(B) Any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such an association:

(i) Is composed of individuals, all of whom are or were actively engaged in the same profession, trade, or occupation; and

(ii) Has been maintained in good faith for purposes other than obtaining insurance; or

(C)(i) An association or a trust or the trustee or trustees of a fund established, created, or maintained for the benefit of members of one (1) or more associations.

(ii) Prior to advertising, marketing, or offering such a policy or contract within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the commissioner that the association or associations:

(a) Have at the outset a minimum of one hundred (100) persons;

(b) Have been organized and maintained in good faith for purposes other than that of obtaining insurance;

(c) Have been in active existence for at least one (1) year; and

(d) Have a constitution and bylaws which provide that:

(1) The association or associations hold regular meetings not less than annually to further purposes of the members;

(2) Except for credit unions, the association or associations collect dues or solicit contributions from members; and

(3) The members have voting privileges and representation on the governing board and committees.

(iii) Thirty (30) days after such a filing, the association or associations will be deemed to satisfy such organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements; or

(D) A group other than as described in subdivisions (4)(A)-(C) of this section, subject to a finding by the commissioner that:

(i) The issuance of the group policy is not contrary to the best interest of the public;

(ii) The issuance of the group policy would result in economies of acquisition or administration; and

(iii) The benefits are reasonable in relation to the premiums charged;

(5)(A)(i) "Long-term care insurance" means any insurance policy, contract certificate, rider, or other evidence of coverage issued, issued for delivery, advertised, marketed, or offered in this state to provide coverage for not less than twelve (12) consecutive months for each covered person, on an expense-incurred, indemnity, prepaid, or other basis, for one (1) or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.

(ii) "Long-term care insurance" includes:

(a) Group and individual annuities and life insurance policies or riders which provide directly or which supplement long-term care insurance;

(b) A policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity; and

(c) Qualified long-term care insurance contracts.

(iii) Long-term care insurance may be issued by insurers, fraternal benefit societies, nonprofit hospital and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization to the extent they are otherwise authorized to issue life or accident and health insurance.

(B)(i) Long-term care insurance shall not include any insurance policy which is offered primarily to provide:

- (a) Basic medicare supplement coverage;
- (b) Basic hospital expense coverage;
- (c) Basic medical-surgical expense coverage;
- (d) Hospital confinement indemnity coverage;
- (e) Major medical expense coverage;
- (f) Disability income or related asset-protection coverage;
- (g) Accident-only coverage;
- (h) Specified disease or specified accident coverage; or
- (i) Limited benefit health coverage.

(ii) With regard to life insurance, this term does not include life insurance policies which accelerate the death benefit specifically for one (1) or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and which provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

(iii) Notwithstanding any other provision contained in this section, any product advertised, marketed, or offered as long-term care insurance shall be subject to the provisions of this subchapter;

(6) "Policy" means any policy, contract, subscriber agreement, certificate, rider, or endorsement or other evidence of coverage delivered or issued for delivery in this state by an issuer, fraternal benefit society, nonprofit hospital or medical service corporation, prepaid health plan, health maintenance organization, or similar organization;

(7) "Qualified long-term care insurance contract" means any individual or group insurance contract if it meets the requirements of section 7702B of the Internal Revenue Code, as amended, and if:

(A) The only insurance protection provided under the contract is coverage of qualified long-term care services;

(B) The contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under Title XVIII of the Social Security Act, as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. This subdivision (7)(B) does not apply to a contract that makes per diem or other periodic payment without regard to expenses;

(C) The contract is guaranteed renewable;

(D) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed. All refunds of premiums, and all policyholder

dividends or similar amounts, under such a contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund of the aggregate premium paid under the contract may be allowed in the event of the death of the insured or a complete surrender or cancellation of the contract; and

(E) The contract contains the consumer protection provisions set forth in section 7702B(g) of the Internal Revenue Code;

(8) “Qualified long-term care insurance contract” also means any life insurance contract which provides long-term care coverage by rider or as part of the contract as long as the contract complies with the applicable provisions of section 7702B of the Internal Revenue Code, as amended; and

(9) “Qualified long-term care services” means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance for personal care services for which an insured is eligible under a qualified long-term care insurance contract, and which are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

History. Acts 1989, No. 642, § 4; 1997, No. 517, §§ 1, 2; 2001, No. 1603, § 64.

Amendments. The 2001 amendment substituted “accident and health” for “disability” in (5)(A)(iii).

U.S. Code. Section 7702B of the Internal Revenue Code, referred to in this section, is codified as 26 U.S.C. § 7702B. Title XVIII of the Social Security Act is codified as 42 U.S.C. § 1395 et seq.

23-97-204. Scope.

The requirements of this subchapter shall apply to policies delivered or issued for delivery in this state on July 1, 1997. This subchapter is not intended to supersede the obligations of entities subject to this subchapter to comply with the substance of other applicable insurance laws insofar as they do not conflict with this subchapter, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance.

History. Acts 1989, No. 642, § 2; 1997, No. 517, § 3.

23-97-205. Required compliance.

No policy or contract may be advertised, marketed, or offered as long-term care or nursing home insurance in this state unless it complies with the provisions of this subchapter.

History. Acts 1989, No. 642, § 6.

23-97-206. Administrative procedures.

Regulations adopted pursuant to this subchapter shall be in accordance with the provisions of § 23-61-108 and the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1989, No. 642, § 7.

23-97-207. Group long-term care insurance.

No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in § 23-97-203(4)(D), unless the Insurance Commissioner has determined that the group policy meets the requirements of § 23-97-203(4)(D).

History. Acts 1989, No. 642, § 5.

23-97-208. Disclosure and performance standards for long-term care insurance.

(a) The Insurance Commissioner may adopt regulations that include standards for full and fair disclosure, setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

(b) No long-term care insurance policy may:

(1) Be cancelled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(c) The commissioner may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

(d) MONTHLY REPORTS. Any time a long-term care benefit funded through a life insurance vehicle by the acceleration of the death benefit is in benefit payment status, a monthly report shall be provided to the policyholder. The report shall include:

- (1) Any long-term care benefits paid out during the month;
- (2) An explanation of any changes in the policy, e.g., death benefits or cash values, due to long-term care benefits being paid out; and
- (3) The amount of long-term care benefits existing or remaining.

(e) **CLAIM DENIALS.** If a claim under a qualified long-term care insurance contract is denied, the issuer shall, within sixty (60) days of the date of a written request by the policyholder or certificate holder, or a representative thereof:

- (1) Provide a written explanation of the reasons for the denial; and
 - (2) Make available all information directly related to the denial.
- (f) **INCONTESTABILITY PERIODS.**

(1) For a policy or certificate that has been in force for less than six (6) months an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance of the coverage.

(2) For a policy or certificate that has been in force for at least six (6) months but less than two (2) years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance for coverage and which pertains to the condition for which benefits are sought.

(3) After a policy or certificate has been in force for two (2) years it is not contestable upon the grounds of misrepresentation alone. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(g) **FIELD ISSUED POLICIES.**

(1) No long-term care insurance policy or certificate may be field issued based upon medical or health status.

(2) For purposes of this section, "field issued" means a policy or certificate issued by an agent or a third-party administrator pursuant to the underwriting authority granted to the agent or third-party administrator by an insurer.

(h) **POLICY RESCISSIONS.** If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments may not be recovered in the event that the policy or certificate is rescinded.

(i) **NONFORFEITURE BENEFITS.**

(1) No long-term care insurance policy or certificate may be delivered or issued for delivery in this state unless the policyholder at the time of the application is offered the option of purchasing a policy or certificate that provides for nonforfeiture benefits to the defaulting or surrendering policyholder or certificate holder. The commissioner shall promulgate a regulation specifying the type or types of nonforfeiture benefits to be included in such policies and certificates and the standards for the benefits.

(2) Nonforfeiture benefits for qualified long-term care insurance contracts shall offer at least a reduced paid-up insurance benefit, an

extended term insurance benefit, the offer of a short-ended benefit period, or other similar offerings approved by the United States Secretary of the Treasury, and shall be provided as specified in regulations. The issuer of the contract may refund premiums upon death of the insured or upon complete surrender or cancellation of the contract or policy, as long as the refund does not exceed the aggregate premiums paid for the contract or policy.

History. Acts 1989, No. 642, § 6; 1997, No. 517, § 4.

23-97-209. Preexisting condition.

(a)(1) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in § 23-97-203(4)(A) shall use a definition of “preexisting condition” which is more restrictive than the following:

“Preexisting condition” means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within six (6) months preceding the effective date of coverage of an insured person.

(2) No long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in § 23-97-203(4)(A) may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such a loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

(3) The Insurance Commissioner may extend the limitation periods set forth in this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(4) The definition of “preexisting condition” in subdivision (a)(1) of this section does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant and, on the basis of the applicant’s answers on that application, conduct underwriting in accordance with that insurer’s established underwriting standards.

(b)(1) Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subdivision (a)(2) of this section expires.

(2) No long-term insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subdivision (a)(2) of this section.

History. Acts 1989, No. 642, § 6.

23-97-210. Prior hospitalization or institutionalization.

(a) Effective April 6, 1994, no long-term care insurance policy or certificate may be delivered or issued for delivery in this state if the policy or certificate:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement;

(2) Conditions eligibility for benefits to be provided in an institutional care setting on the receipt of a higher level of institutional care; or

(3) Conditions eligibility for any benefits other than waiver of premium, postconfinement, post-acute care, or recuperative benefits on a prior institutionalization requirement.

(b) Effective April 6, 1994, a long-term care insurance policy or certificate containing any limitations or conditions for eligibility specified in subdivision (a)(3) of this section shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

(c) A long-term care insurance policy or certificate:

(1) Containing a benefit advertised, marketed, or offered as a home health care or home care benefit may not condition receipt of benefits on a prior institutionalization requirement;

(2) Which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days for which benefits are paid; and

(3) Which provides for waiver of premium, postconfinement, post-acute care, or recuperative benefits only following institutionalization shall not condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.

History. Acts 1989, No. 642, § 6; 1993, No. 901, § 43.

23-97-211. Outline of coverage.

(a)(1) A written outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation with a notice which prominently directs the attention of the recipient to the document and its purpose.

(2) The Insurance Commissioner shall prescribe a standard format for such an outline, including style, arrangement, overall appearance, and content.

(3) In the case of agent solicitations, an agent must deliver the outline of coverage to the applicant prior to the presentation of an application or enrollment form.

(4) In the case of direct response solicitations, the outline of coverage must be presented to the applicant in conjunction with any application or enrollment form.

(b) The outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy or certificate;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy or certificate;

(3) A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of the issuer's right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described;

(4) A statement in bold type that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(5) A description of the terms under which the policy or certificate may be returned and premium refunded; and

(6) A brief description of the relationship of cost of care to benefits.

(c) If the policy or certificate is intended to be a qualified long-term care insurance contract, the outline of coverage shall also include a statement that discloses to the policyholder or certificate holder that the policy is intended to be a qualified long-term care insurance contract.

History. Acts 1989, No. 642, § 6; 1997, No. 517, § 5.

23-97-212. Certificates.

(a) A certificate issued pursuant to a group long-term care insurance policy shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy; and

(3) A statement that the group master policy determines governing contractual provisions.

(b) The issuer of a qualified long-term care insurance contract shall deliver to the applicant, policyholder, or certificate holder the contract or certificate no later than thirty (30) days after the date of approval.

History. Acts 1989, No. 642, § 6; 1997, No. 517, § 6.

23-97-213. Right to return — Free look.

(a)(1) A long-term care insurance applicant, policyholder, or certificate holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the entire premium refunded if, after examination of the policy or certificate, the policyholder or certificate holder is not satisfied for any reason.

(2)(A) Long-term care insurance policies and certificates shall be accompanied by a notice prominently printed on the first page or attached thereto stating in substance that the policyholder or certificate holder shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the entire premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in § 23-97-203(4)(A), the applicant or the policyholder is not satisfied for any reason.

(B) If an application for a qualified long-term care contract is denied, the issuer shall refund to the applicant any premium and any other fee submitted by the applicant within thirty (30) days of the denial.

(b)(1) A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation shall have the right to return the policy within thirty (30) days of its delivery and to have the entire premium refunded if, after examination, the insured person is not satisfied for any reason.

(2) Long-term care insurance policies issued pursuant to a direct response solicitation shall be accompanied by a notice prominently printed stating in substance that the insured person shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason.

History. Acts 1989, No. 642, § 6; 1997, No. 517, § 7.

CHAPTER 98

MINIMUM BASIC BENEFIT POLICIES AND SUBSCRIPTION CONTRACTS

SECTION.

- 23-98-101. Legislative findings.
- 23-98-102. Definitions.
- 23-98-103. Notices and hearings before adopting regulations.
- 23-98-104. Formation of trusts of qualified individuals.
- 23-98-105. Issuance of minimum basic benefit policies permitted — Applicability.
- 23-98-106. Minimum basic benefits.
- 23-98-107. Disclosure requirements for

SECTION.

- minimum basic benefit policies.
- 23-98-108. Notice of minimum basic benefit policies — Payroll deduction.
- 23-98-109. Managed care and cost control provisions.
- 23-98-110. Approval of forms and rates.
- 23-98-111. Record-keeping and reporting requirement for insurers.

A.C.R.C. Notes. Acts 1991, No. 238, § 12, provided: "The Insurance Commissioner is directed to make a written report by October 1, 1994 to the Governor and

the General Assembly regarding the minimum basic benefit policies permitted by this act. In the report, the commissioner shall describe the extent to which mini-

minimum basic benefit policies have been purchased, the adequacy of the coverages under such policies and any recommendations by the commissioner with respect to the continuation, modification, or discontinuation of the minimum basic benefit policies permitted by this act."

Effective Dates. Acts 1991, No. 238, § 16: Feb. 27, 1991. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the cost of health insurance coverage is not affordable for many small businesses, their employees, self-employed persons and other individuals; and that as a result hundreds of thousands of Arkansas citizens do not have any health insurance coverage; and that this act is immediately necessary to authorize new classes of hospital and medical insurance coverage so that qualified groups, families and individuals can obtain insurance coverage. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1603, § 66: Apr. 13, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly that the term disability insurance is obsolete in the insurance industry and should be updated to the usage of accident and health insurance to conform with national industry standards. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-98-101. Legislative findings.

The General Assembly finds that the cost of health insurance coverage is not affordable for many small businesses, their employees, self-employed persons, and other individuals, and that as a result hundreds of thousands of Arkansas citizens do not have any health insurance coverage. It is the intent of the General Assembly to reduce the cost of health insurance for these citizens by:

(1) Authorizing the development of new classes of hospital and medical insurance coverage for qualified groups, families, and individuals; and

(2) Authorizing the Insurance Commissioner to develop means to assist in limiting the marketing and administrative costs of certain of such new classes of insurance coverage.

History. Acts 1991, No. 238, § 1.

23-98-102. Definitions.

As used in this chapter:

(1) "Children's preventive health care services" means physician-delivered or physician-supervised services for eligible dependents from birth through age six (6), with periodic physical examinations including medical history, physical examination, developmental assessment, anticipatory guidance and appropriate immunizations, and laboratory

tests, in keeping with prevailing medical standards for the purposes of this section;

(2) "COBRA" means the "Consolidated Omnibus Budget Reconciliation Act of 1985";

(3) "Commissioner" means the Insurance Commissioner;

(4) "Insured" means any individual or group insured under a minimum basic benefit policy issued pursuant to the provisions of this chapter;

(5) "Insurer" means an insurer, health maintenance organization, hospital, or medical service corporation offering a minimum basic benefit policy pursuant to this chapter;

(6) "Loss ratio" means the percentage derived by dividing incurred claims, both reported and not reported, by total premiums earned;

(7) "Minimum basic benefit policy" means a policy or subscription contract which an insurer may choose to offer to a qualified individual, qualified family, or qualified group pursuant to the provisions of this chapter;

(8) "Periodic physical examinations" means the routine tests and procedures for the purpose of detection of abnormalities or malfunctions of bodily systems and parts according to accepted medical practice;

(9) "Permitted coverages" means health or hospitalization coverage under a minimum basic benefit policy issued pursuant to this chapter, under Medicaid, Medicare, limited benefit policies as defined by rules and regulations of the commissioner, COBRA, or the provisions of § 23-86-114, § 23-86-115, or § 23-86-116;

(10) "Qualified family" means individuals all of whom are qualified individuals and all of whom are related by blood, marriage, or adoption;

(11) "Qualified group" means a group, organized other than pursuant to § 23-98-109, in which each covered individual, or covered dependent of such a covered individual, within the group is a qualified individual. A qualified group may include less than all employees of an employer;

(12)(A) "Qualified individual" means an individual who is employed in or is a resident of Arkansas and who has been without health insurance coverage, other than permitted coverage, for the twelve-month period immediately preceding the effective date of a minimum basic benefit policy issued pursuant to this chapter and who meets reasonable underwriting standards.

(B) However, children newborn to or adopted by an insured after the effective date of a policy issued to the insured pursuant to this chapter which covers the insured and members of the insured's family, shall be considered qualified individuals; and

(13) "Qualified trust" means a group organized pursuant to § 23-98-104 in which each covered individual, or covered dependent of such a covered individual, within the group is a qualified individual.

History. Acts 1991, No. 238, § 2.

U.S. Code. The Consolidated Omnibus

Budget Reconciliation Act of 1985 (COBRA), referred to in this section, is codi-

fied throughout Titles 5, 15, 19, 20, 26, 38, and 42 of the United States Code.

23-98-103. Notices and hearings before adopting regulations.

The Insurance Commissioner shall provide notice and conduct hearings in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., before adopting any regulations of general applicability to minimum basic benefit policies to be issued pursuant to this chapter.

History. Acts 1991, No. 238, § 10.

23-98-104. Formation of trusts of qualified individuals.

Solely for purposes of obtaining minimum basic benefit policies pursuant to the authority granted by this chapter, trusts may be formed composed of qualified individuals, qualified families, or qualified groups. Each trust may serve as a master policyholder. Members of qualified groups and members of such trusts may join together solely for the purpose of obtaining health insurance coverage under the provisions of this chapter. The Insurance Commissioner shall adopt rules and regulations governing the formation and operation of the trust to assure the protection of persons purchasing policies pursuant to this chapter.

History. Acts 1991, No. 238, § 4.

23-98-105. Issuance of minimum basic benefit policies permitted — Applicability.

Insurers are authorized to issue minimum basic benefit policies pursuant to and in compliance with the provisions of this chapter to qualified individuals, qualified families, qualified trusts, and qualified groups. This chapter shall apply only to those minimum basic benefit policies issued under this chapter and regulations issued by the Insurance Commissioner pursuant to the authority of this chapter. Nothing in this chapter shall be deemed to add to, detract from, or in any manner apply to policies, subscription contracts, benefits, or related activities under any other statutory or regulatory authorities.

History. Acts 1991, No. 238, § 3.

23-98-106. Minimum basic benefits.

(a) Minimum basic benefit policies offered under the authority of this chapter shall provide basic levels of primary, preventive, and hospital care, including, but not limited to, the following:

(1) Fifteen (15) days of inpatient hospitalization coverage per policy year;

(2)(A) As an option, prenatal care, including:

(i) One (1) prenatal office visit per month during the first two (2) trimesters of pregnancy;

(ii) Two (2) office visits per month during the seventh and eighth months of pregnancy; and

(iii) One (1) office visit per week during the ninth month until term.

(B) Coverage for each office visit shall include:

(i) Necessary and appropriate screening, including history, physical examination, and such laboratory and diagnostic procedures as may be deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member; and

(ii) Such prenatal counseling as the physician deems appropriate;

(3) As an option, obstetrical care, including physicians' services, delivery room, and other medically necessary hospital services;

(4)(A) As an option, coverage for children's preventive health care services on a periodic basis from birth through age six (6), including thirteen (13) visits at approximately the following age intervals:

(i) Birth;

(ii) Two (2) months;

(iii) Four (4) months;

(iv) Six (6) months;

(v) Nine (9) months;

(vi) Twelve (12) months;

(vii) Fifteen (15) months;

(viii) Eighteen (18) months;

(ix) Two (2) years;

(x) Three (3) years;

(xi) Four (4) years;

(xii) Five (5) years; and

(xiii) Six (6) years.

(B) The option may provide that children's preventive health care services which are rendered during a periodic review shall:

(i) Only be covered to the extent that these services are provided by or under the supervision of a single physician during the course of one (1) visit; and

(ii) Be reimbursed at levels established by the Insurance Commissioner which shall not exceed those established for the same services under the Medicaid program in the State of Arkansas.

(C) Copayment and deductible amounts shall not be greater than copayments and deductibles imposed for other physician's office visits;

(5) A basic level of primary and preventive care, including two (2) office visits per calendar year for covered services rendered by a provider licensed to provide the services rendered;

(6) Annual, lifetime, or other benefit limits in amounts not less than may be established by the commissioner but which initially shall be not less than one hundred thousand dollars (\$100,000) as an annual benefit and two hundred fifty thousand dollars (\$250,000) as a lifetime benefit;

(7) Such waiting period, if any, as the commissioner may establish for transferring from any minimum basic benefit policy issued under this chapter by one (1) insurer to a minimum basic benefit policy issued under this chapter by another insurer;

(8)(A) Every policy issued pursuant to this chapter which covers the insured and members of the insured's family shall include coverage for newborn infant children of the insured from the moment of birth, and for adopted minors from the date of the interlocutory decree of adoption.

(B) The insurer may require that the insured give notice to his or her insurer of any newborn children within ninety (90) days following the birth of the newborn infant and of any adopted child within sixty (60) days of the date the insured has filed a petition to adopt. The coverage of newborn children or adopted children shall not be less than the same as is provided for other members of the insured's family; and

(9) Such provisions, if any, as the commissioner may require, for:

(A) An annual or other deductible or equivalent;

(B) Patient copayments, including a differential, if any, for nonpreferred providers;

(C) Annual stop loss amounts;

(D) Continuation of coverage;

(E) Conversion;

(F) Replacement of prior carrier's coverage;

(G) Exclusionary periods for preexisting conditions; and

(H) Continuation of benefits.

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner shall consider the cost impact and essential nature of each of such requirements as well as the competitive impact of such requirements, and may vary any of such requirements, add, fix, or remove requirements or establish alternative benefit methods to encourage participation of insurers in a manner consistent with meeting the goal of providing minimum basic health services at an affordable price to those eligible for coverage under this chapter.

(c) The commissioner may authorize a waiver of any of the policy provisions required pursuant to this section or the commissioner's authority under this section in order to authorize a minimum basic benefit policy to be issued as a medicaid supplement without requiring redundant coverage.

(d)(1) Any minimum basic benefit policy issued pursuant to the provisions of this chapter may be issued without the provision of the benefits or requirements mandated by the following statutes to be included in or offered to be included in accident and health insurance or health maintenance organization policies or subscription contracts or regulations issued pursuant to such statutes: §§ 23-79-129, 23-79-130, 23-79-137, 23-79-139 — 23-79-141, 23-85-131(b), 23-85-137, 23-86-108(4) and (7), 23-86-113 — 23-86-116, and 23-86-118.

(2) However, nothing in this chapter shall:

(A) Reduce any professional scope of practice as defined in the licensure law for any health care provider;

(B) Authorize any discrimination not permitted under Arkansas law in payment or reimbursement for services; or

(C) Be construed to repeal or eliminate the application of the Arkansas freedom of choice legislation, § 23-79-114, or coordination of benefit statutes or regulations to policies issued pursuant to this chapter.

History. Acts 1991, No. 238, § 5; 2001, No. 1603, § 65.

substituted "accident and health" for "disability" in (d); and made minor stylistic changes.

Amendments. The 2001 amendment

23-98-107. Disclosure requirements for minimum basic benefit policies.

(a) Before any insurer issues a minimum basic benefit policy, it shall obtain from the prospective insured a signed, written statement, in a form approved by the Insurance Commissioner, in which the prospective insured:

(1) Certifies as to eligibility for coverage under the minimum basic benefit policy;

(2) Acknowledges the limited nature of the coverage provided and an understanding of the managed care and cost control features of the minimum basic benefit policy;

(3) Acknowledges that if misrepresentations are made regarding the insured's eligibility for coverage under a minimum basic benefit policy, then the person making the misrepresentations shall forfeit coverage provided by the minimum basic benefit policy; and

(4) Acknowledges that the prospective insured, at the time of application for the minimum basic benefit policy, was offered the opportunity to purchase health insurance coverage which would have included all mandated or mandated optional benefits required by Arkansas law and that the prospective insured rejected such coverage.

(b) A copy of the written statement shall be provided to the prospective insured no later than at the time of minimum basic benefit policy delivery, and the original of the written statement shall be retained by the insurer for the longer of either the period of time in which the minimum basic benefit policy remains in effect or five (5) years.

(c) At the time coverage under a minimum basic benefit policy shall take effect for an insured, the insurer shall provide the insured with a written disclosure statement containing such information as the commissioner shall require and in a form approved by the commissioner. The disclosure statement shall be separate from the insurance policy or evidence of coverage provided to the insured. The disclosure statement shall contain at least the following information:

(1) An explanation of those mandated or mandated optional benefits not covered by the minimum basic benefit policy but which would otherwise be required to be provided under Arkansas law;

(2) An explanation of the managed care and cost control features of the minimum basic benefit policy, along with all appropriate mailing addresses and telephone numbers to be utilized by the insured in seeking information or authorization, as well as a list of any preferred providers then contracting with the insurer, and an explanation of the obligations of the providers and the insured with regard to services determined not to be medically necessary; and

(3) An explanation of the primary and preventive care features of the minimum basic benefit policy.

(d) Any material statement made by an applicant for coverage under a minimum basic benefit policy which falsely certifies as to the applicant's eligibility for coverage under a minimum basic benefit policy shall serve as the basis for termination of coverage under any minimum basic benefit policy issued to the applicant.

History. Acts 1991, No. 238, § 8.

RESEARCH REFERENCES

UALR L.J. Battaglia, The Shift Toward Managed Care and Emerging Liability Claims Arising from Utilization Management and Financial Incentive Arrangements Between Health Care Providers and Payers, 19 UALR L.J. 155.

23-98-108. Notice of minimum basic benefit policies — Payroll deduction.

(a) Those employers in the State of Arkansas that do not provide a portion of the cost of health insurance for their employees shall provide notice to their employees of the existence of the minimum basic benefit policy authorized by this chapter. The notice shall be in a form prepared by the Insurance Commissioner and may be provided to employees by posting at the place of employment or in any other reasonable manner.

(b) Any insured, or dependent of an insured, under this chapter may provide written request to his or her employer to withhold the amount of premium on a minimum basic benefit policy from his or her paycheck along with written instructions for remittance of the premium, in which case the employer shall withhold the premium and remit the premium payment to the insurer, unless to do so would require the employer to make remittances to more than three (3) different insurers.

(c) No employer required to make a remittance of a premium under the provisions of this chapter shall be required to make such remittances more often than one (1) time per month.

(d) Nothing in this chapter shall be construed to require or mandate in any way that an employer provide or pay any portion of the cost of a minimum basic benefit policy issued under this chapter.

(e) Upon request by the commissioner, the Arkansas Employment Security Department is authorized to provide a copy of the form of notice prepared by the commissioner to employers as the commissioner and the department may agree upon.

History. Acts 1991, No. 238, § 6.

23-98-109. Managed care and cost control provisions.

(a) The insurer may include any or all of the following managed care provisions to control the cost of a minimum basic benefit policy issued pursuant to this chapter:

(1) An exclusion for services that are not medically necessary;
(2) A procedure for preauthorization by telephone, to be confirmed in writing, by the insurer or its designee of any medical service, the cost of which is anticipated to exceed a minimum threshold, except for services necessary to treat a medical emergency;

(3)(A) A preferred panel of providers who have entered into written agreements with the insurer to provide services at specified levels of reimbursement.

(B) With the exception of health maintenance organizations, participation in such a preferred panel shall be open to all providers licensed to provide the services to be covered.

(C)(i) Any such written agreement between a provider and an insurer shall contain a provision under which the parties agree that the insured individual or covered member will have no obligation to make payment for any medical service rendered by the provider that is determined not to be medically necessary.

(ii) However, charges for medically necessary services received by the insured which are not covered by the minimum basic benefit policy shall be considered the responsibility of the insured; and

(4)(A) A provision under which any insured who obtains medical services from a nonpreferred provider shall receive reimbursement only in the amount that would have been received had services been rendered by a preferred provider, less a differential, if any, in an amount to be approved by the Insurance Commissioner but which may not exceed twenty-five percent (25%).

(B) However, charges for medically necessary services received by the insured which are not covered by the minimum basic benefit policy shall be considered the responsibility of the insured.

(b) Nothing in this chapter shall be construed to prohibit an insurer from including in a minimum basic benefit policy other managed care and cost control provisions which, subject to the approval of the commissioner, have the potential to control costs in a manner which does not result in inequitable treatment of an insured under this chapter.

History. Acts 1991, No. 238, § 7.

RESEARCH REFERENCES

UALR L.J. Battaglia, The Shift Toward Managed Care and Emerging Liability Claims Arising from Utilization Man-

agement and Financial Incentive Arrangements Between Health Care Providers and Payers, 19 UALR L.J. 155.

23-98-110. Approval of forms and rates.

(a) All minimum basic benefit policy forms, including applications, enrollment forms, policies, certificates, evidences of coverage, riders, amendments, endorsements, disclosure forms, and marketing communications used in connection with the sale or advertisement of a minimum basic benefit policy shall be submitted to the Insurance Commissioner for approval in the same manner as required by § 23-79-109(a) or § 23-76-112(a).

(b) Minimum basic benefit policies are subject to the filing and approval statutes, rules, and regulations of the state. No rate shall be considered reasonable nor shall it be approved unless:

(1) It is based upon a pool, community rating, or other rating formula acceptable to the commissioner; and

(2)(A) As to individual policies and policies issued to qualified trusts, it is likely to produce a loss ratio, as certified by a qualified actuary, which is acceptable to the commissioner, but in no event shall such a loss ratio be less than sixty-five percent (65%).

(B) However, the commissioner may set a minimum loss ratio for group policies issued pursuant to this chapter if the commissioner determines that inequitable or unfair treatment of policyholders would otherwise result.

(c) To the extent that an insurer has a surplus in a given year which has been generated on minimum basic benefit policies issued pursuant to this chapter to a qualified group by a loss ratio of less than seventy-five percent (75%) or issued pursuant to this chapter to qualified individuals, qualified families, or qualified trusts by a loss ratio of less than sixty-five percent (65%), that surplus shall be taken into consideration in setting rates in following years in such manner as to benefit the holders of such minimum basic benefit policies.

(d)(1) The commissioner may require that as to each minimum basic benefit policy approved, the insurer provide a statement of the portion of the rate or premium applicable to the minimum basic benefit policy coverage required by this chapter, or the commissioner pursuant to this chapter, or such other information as the commissioner may require so that prospective purchasers of policies pursuant to this chapter may have an ability to make a direct comparison of the cost of the minimum basic benefits within policies of the same class issued by different insurers.

(2) The commissioner may include rate comparison or other cost information in the form of notice which may be provided by the commissioner to employers pursuant to this chapter.

History. Acts 1991, No. 238, § 9.

23-98-111. Record-keeping and reporting requirement for insurers.

Each insurer issuing a minimum basic benefit policy in this state shall maintain separate and distinct records of enrollment, claim costs, premium income, utilization, and such other information as may be required by the Insurance Commissioner. Each insurer providing a minimum basic benefit policy shall furnish an annual report to the commissioner in a form prescribed by the commissioner which shall contain such information as the commissioner may require to analyze the effect of insurance coverage issued pursuant to this chapter. The annual report required shall be in a form consistent with the forms, if any, adopted by the National Association of Insurance Commissioners for such a purpose.

History. Acts 1991, No. 238, § 11.

CHAPTER 99

HEALTH CARE PROVIDERS

SUBCHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. PATIENT PROTECTION ACT OF 1995.
3. PRIMARY EYE CARE PROVIDER ACT.
4. ARKANSAS HEALTH CARE CONSUMER ACT.
5. ARKANSAS MENTAL HEALTH PARITY ACT.
6. DENTAL POINT OF SERVICE ACT.
7. GRIEVANCE SYSTEMS AND QUALITY ASSESSMENT AND IMPROVEMENT SYSTEMS.

A.C.R.C. Notes. Acts 2001, No. 549, §§ 1-12, provided: "SECTION 1. (a) The General Assembly finds that: (1) The State of Arkansas currently ranks fiftieth (50th) among the fifty (50) states for having the least healthy population; (2) A major contributing factor to the state's low health ranking is its high percentage of uninsured persons; (3) There is a significant gap in the state's health care "safety net", especially with regard to working adults with low incomes; and (4) New relationships are needed between state government, local communities, public and private service agencies and uninsured persons in this state so that health care services for the uninsured will be more accessible, more affordable and more effective.

"(b) Therefore, there is established the Rural Health Access Pilot Program as a bridge connecting and assisting government, communities and citizens to build a

more comprehensive and responsible health care system, which seeks to expand access and education with regard to health services for economically disadvantaged, uninsured, working adults.

"SECTION 2. Definitions. As used in this act: (1) "Local", and words of similar import, means of, based in, located in, or primarily relating to the rural community to be served by the rural health access pilot program initiated by a rural health cooperative; (2) "Medically underserved" means a designation made by the U. S. Health Resources and Services Administration in accordance with the following factors: (A) The percent of the population living below the federal poverty line; (B) The percent of the population that is sixty-five (65) years of age or older; (C) The infant mortality rate; and (D) The ratio of primary care physicians to the population; (3) "Rural Community" means an unlimited number of geographically contiguous

political subdivisions that are considered medically underserved and in which the total population does not exceed sixty thousand (60,000) persons; (4) "Rural Health Network" means a system organized by a rural health cooperative and at least three (3) separately-owned local health care providers or other entities that provide or support the delivery of health care services when such system is established and maintained as part of a rural health access pilot program and for the purpose of expanding access to health care in a rural community, coordinating the delivery of health care in a rural community or improving the quality of health care in a rural community; and (5) "Rural Health Cooperative" means a non-profit corporation organized under the laws of this state that undertakes to establish, maintain, and operate a rural health access pilot program through a rural health network, or combination of networks, whereby hospital, medical, health education, and other health care services may be furnished by or through provider members of the rural health network to such of the uninsured residents of that rural community as become members of the rural health access pilot program under contracts which entitle each member to such services.

"SECTION 3. (a) A rural health access cooperative shall administer its program in a manner that: (1) Defines the population that may receive subsidized services provided through the program by limiting program eligibility to adults between the ages of eighteen (18) and sixty-five (65) who: (A) Are residents of the rural community being served by the rural health access pilot program; (B) Are without health care coverage; (C) Are not eligible for Medicare, Medicaid, Veterans Benefits, or other similar government programs; (D) Have an income not exceeding two hundred percent (200%) of the federal poverty guidelines for the State of Arkansas; and (E) Meet certain medical underwriting requirements established by the board of directors of the rural health cooperative; (2) Defines the population that may receive unsubsidized services provided through the program by limiting program eligibility to adults between the ages of eighteen (18) and sixty-five (65) and their dependent children who: (A) Are residents of the rural community being

served by the rural health access pilot program; (B) Are without health care coverage; (C) Are not eligible for Medicare, Medicaid, ARKids First, Veterans Benefits, or other similar government programs; (D) Have an income not exceeding three hundred percent (300%) of the federal poverty guidelines for the State of Arkansas or are a full-time employee of the rural health cooperative; and (E) Meet certain medical underwriting requirements established by the board of directors of the rural health cooperative; (3) Provides as a condition of eligibility for the automatic assignment to the rural health cooperative of medical payment due the client member of the rural health access program; (4) Defines the services to be covered under the rural health access program; and (5) Establishes co-payments for services received by client members of the rural health access program.

"(b) A rural health cooperative shall limit the total number of client members in a rural health access pilot program to a maximum of three thousand (3,000) eligible adults and eligible dependent children.

"(c) To promote the most efficient use of resources, rural health cooperatives shall emphasize in client member and provider member agreements disease prevention, early diagnosis and treatment of medical problems, and community care alternatives for individuals who would otherwise be at risk to be institutionalized.

"SECTION 4. Rural health cooperatives shall actively participate with Area Health Education Center programs, whenever feasible, in developing and implementing recruitment, training, and retention programs directed at positively influencing the supply and distribution of health care professionals serving in or receiving training in rural health network areas.

"SECTION 5. (a) The board of directors of a rural health cooperative shall include representatives of: (1) Administrators of hospitals that have contracted with the rural health cooperative as provider members to render hospital services to client members of the rural health access program; (2) Physicians who have contracted with the rural health cooperative as provider members to render medical services to client members of the rural health access program; (3) Non-physician and non-hospital based health care providers

or educators who have contracted with the rural health cooperative as provider members to render health services, health education and other similar services to client members of the rural health access program; and (4) The rural community, exclusive of provider representatives.

"(b) A rural health cooperative shall maintain an active advisory committee that includes representatives of client members of the rural health access pilot program.

"SECTION 6. A rural health cooperative shall have power to make donations for the public welfare or for charitable, scientific, or educational purposes, subject to such limitations, if any, as may be contained in its articles of incorporation or any amendment thereto.

"SECTION 7. (a) In order to demonstrate viability and effectiveness, a rural health cooperative shall collect data and make a report to the Senate and House Committees on Insurance and Commerce, Senate and House Committees on Public Health, Welfare and Labor, and Senate and House Committees on City, County, and Local Affairs.

"(b) Data shall include: (1) The results of client member surveys; (2) The results of provider member surveys; (3) The results of community need assessment surveys; and (4) Such other data as may be relevant to the rural health access program.

"(c) The report shall include recommendations with regard to criteria and priorities for improvement and expansion of the rural health access program.

"SECTION 8. No rural health cooperative shall be deemed to be engaged in the corporate practice of medicine.

"SECTION 9. No liability on the part of, and no cause of action of any nature shall arise against any member of the board of directors of a rural health cooperative or against an employee or agent of a rural health cooperative for any lawful action taken by them in the performance of their administrative powers and duties under this act.

"SECTION 10. (a) Rural health cooperatives shall not be considered or regulated as any type of entity governed by Title 23 of the Arkansas Code. None of the programs offered by a rural health cooperative shall be subject to regulation under Title 23 of the Arkansas Code.

"(b) Any entity subject to regulation under Title 23 of the Arkansas Code that contracts with a rural health cooperative to provide or to arrange for the provision of secondary or tertiary services to client members of a rural health access pilot program shall not be required to comply with any provision of Title 23 of the Arkansas Code that mandates the provision of certain benefits or mandates the provision of a certain level of benefits, or both, with regard to the client members of a rural health access pilot program.

"SECTION 11. This act shall automatically expire on June 30, 2003, unless a Medicaid Section 1115 waiver is granted for its continuation or unless extended by the General Assembly.

"SECTION 12. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the availability of a continuum of quality health care services, including preventive, primary, secondary, tertiary, and long term care is essential to the economic and social vitality of rural communities; that in many rural communities access to such health care services is limited and the quality of health care services is negatively affected by inadequate financing, difficulty in recruiting and retaining skilled health professionals, and the migration of patients to urban areas for general acute care and specialty services; that the efficient and effective delivery of health care services to the uninsured in rural areas requires the integration of public and private resources and the coordination of health care providers; that currently state statutory law does not provide the flexibility necessary to accomplish such integration and coordination in a cost-effective manner; that the ability to create rural health cooperatives to organize rural health networks can help to alleviate many of the problems identified with the delivery of quality health care in rural communities; that rural health cooperatives and their networks may serve as public "laboratories" to determine the best way of organizing rural health services so that the state can move closer to ensuring that everyone has access to health care while promoting cost containment efforts; and the immediate passage of this act is necessary to provide a statutory framework for the establishment of rural health cooperatives to accomplish the objectives heretofore de-

scribed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1557, § 1, provided: "SECTION 1. (a) There is created the Health Task Force Commission.

"(b) The committee shall consist of at least eleven (11) members but no more than twenty-one (21) members: (1) The Speaker of the House of Representatives or a designee; (2) The President Pro Tempore of the Senate or a designee; (3) The Governor or a designee; (4) The President of the Independent Physicians Association or a designee; (5) The Insurance Commissioner or a designee; (6) The minority leader of the House of Representatives or a designee; (7) The minority leader of the Senate or a designee; (8) A designee of the Arkansas Medical Society; (9) A designee of the Hospital Association; (10) The Director of the Health Department or a designee; (11) A designee of the Minority Health Commission; and (12)(A) The commission may add an additional ten (10) members to be selected by a majority of the commission. (B) The additional members may be composed of members of the General Assembly, members of the public, or representatives of health organizations.

"(c)(1) The members of the commission shall serve one (1) two-year term. (2) Designations to fill vacancies shall be made for the remainder of an unexpired term only.

"(d) A majority of the membership of the commission shall constitute a quorum. (2) A majority of quorum shall be necessary for the transacting of any business of the commission.

"(e)(1) The Governor or a designee shall call the first meeting within thirty (30) days of the effective date of this act and shall act as chair for the first meeting. (2) At the first meeting, the commission shall elect a chairperson.

"(f) The members of the commission

shall be volunteers who shall participate without compensation or reimbursement.

"(g) The commission shall expire June 30, 2003."

Acts 2001, No. 1557, § 2, provided: "SECTION 2. (a) The Health Task Force Commission shall study the relations among health care insurance plans, physicians and the quality of health care, to include: (1) The continuing rise in health care premiums; (2) Reasons why physicians are prevented from treating certain patients who have insurance coverage unless they join a particular health maintenance organization or the patients are required to pay more than other covered patients; and (3) Whether the quality of care is being maintained when patients are forced to go to other hospitals because their health care provider happens to be a member of a certain network.

"(b) The commission shall be a fact-finding commission.

"(c) The commission shall make recommendations from the information and facts gleaned from its study and fact-finding to the Legislative Council by November 1, 2002."

Acts 2003, No. 660, § 9, codified as § 20-77-1509, provided: "(a)(1) Community-based health cooperatives shall not be considered or regulated as any type of entity governed by Title 23 of the Arkansas Code. (2) No program offered by a community-based health cooperative shall be subject to regulation under Title 23 of the Arkansas Code.

"(b) An entity subject to regulation under Title 23 of the Arkansas Code that contracts with a community-based health cooperative to provide or to arrange for the provision of secondary or tertiary services to client members of a community-based health care access program may not be required to comply with any provision of Title 23 of the Arkansas Code that mandates the provision of certain benefits, mandates the provision of a certain level of benefits, or both, regarding client members of a community-based health care access program. The exemption from regulation under Title 23 of the Arkansas Code shall apply only to the entity's contracts with or services provided to the community-based health cooperative and in all other instances the entity is subject to the provisions of Title 23 of the Arkansas Code."

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — PATIENT PROTECTION ACT OF 1995.

SECTION.	SECTION.
23-99-201. Short title.	23-99-205. Construction.
23-99-202. Legislative findings and intent.	23-99-206. Violations.
23-99-203. Definitions.	23-99-207. Civil penalties.
23-99-204. Terms of health benefit plan.	23-99-208. Void provisions.
	23-99-209. Applicability.

A.C.R.C. Notes. Acts 1995, No. 505, § 12, provided: “In the event any portion of this act is found to be in violation of federal law or in conflict therewith, or held to be unconstitutional, that portion shall hereby be repealed and all other portions of this act shall remain in force.”

Acts 1995, No. 1193, § 9, provided: “In the event any portion of this act is found to be in violation of federal law or in conflict therewith, or held to be unconstitutional, that portion shall hereby be repealed and all other portions of this act shall remain in force.”

Publisher’s Notes. In 1997, this subchapter was held to be preempted by the

federal Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., and a permanent injunction barring the enforcement of this subchapter was granted. See *Prudential Ins. Co. of America v. National Park Medical Ctr.*, 964 F. Supp. 1285 (E.D. Ark. 1997), aff’d, 154 F.3d 812 (8th Cir. 1998). However, the permanent injunction was subsequently dissolved based upon a decision by the United States Supreme Court involving similar statutory law of another state. See *Prudential Ins. Co. of America v. National Park Medical Ctr.*, No. 4: 95CV514 JMM (E.D. Ark. Feb. 12, 2004) (order dissolving permanent injunction).

RESEARCH REFERENCES

UALR L.J. Price, Pre-emption “Between the Poles:” ERISA’s Effect on State	Common Law Actions Other than Benefit Claims. 19 UALR L.J. 541.
--	--

23-99-201. Short title.

This subchapter may be cited as the “Patient Protection Act of 1995”.

History. Acts 1995, No. 505, § 1.

CASE NOTES

Federal Preemption.

The Patient Protection Act, § 23-99-201 et seq., is preempted in its entirety by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 et seq., since it makes pervasive impermissible references to ERISA and is not saved by the savings clause of ERISA, 29 U.S.C. § 1144(b)(2)(A). *Prudential Ins. Co. of America v. National Park Medical Ctr.*, 154 F.3d 812 (8th Cir. 1998) (decision under prior law).

23-99-202. Legislative findings and intent.

The General Assembly finds that patients should be given the opportunity to see the health care provider of their choice. In order to assure the citizens of the State of Arkansas the right to choose the provider of their choice, it is the intent of the General Assembly to provide the opportunity of providers to participate in health benefit plans.

History. Acts 1995, No. 505, § 2.

CASE NOTES

Cited: Prudential Ins. Co. of America v. 1285 (E.D. Ark. 1997), aff'd, 154 F.3d 812 National Park Medical Ctr., 964 F. Supp. (8th Cir. 1998) (decision under prior law).

23-99-203. Definitions.

(a)(1) "Copayment" means a type of cost sharing whereby insured or covered persons pay a specified predetermined amount per unit of service or percentage of health care costs with their health care insurer paying the remainder of the charge.

(2) The copayment is incurred at the time the service is rendered.

(3) The copayment may be a fixed or variable amount.

(b) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(c) "Health benefit plan" means any entity or program that provides reimbursement, including capitation, for health care services, except and excluding any entity or program that provides reimbursement and benefits pursuant to Arkansas Constitution, Amendment 26, Acts 1993, No. 796, or the Public Employee Workers' Compensation Act, § 21-5-601 et seq., and rules, regulations, and schedules adopted thereunder.

(d) "Health care provider" means those individuals or entities licensed by the State of Arkansas to provide health care services, limited to the following:

- (1) Physicians and surgeons (M.D. and D.O.);
- (2) Podiatrists;
- (3) Chiropractors;
- (4) Physical therapists;
- (5) Speech pathologists;
- (6) Audiologists;
- (7) Dentists;
- (8) Optometrists;
- (9) Hospitals;
- (10) Hospital-based services;
- (11) Psychologists;
- (12) Licensed professional counselors;

- (13) Respiratory therapists;
- (14) Pharmacists;
- (15) Occupational therapists;
- (16) Long-term care facilities;
- (17) Home health care;
- (18) Hospice care;
- (19) Licensed ambulatory surgery centers;
- (20) Rural health clinics;
- (21) Licensed certified social workers;
- (22) Licensed psychological examiners;
- (23) Advanced practice nurses;
- (24) Licensed dieticians;
- (25) Community mental health centers or clinics;
- (26) Certified orthotists; and
- (27) Prosthetists.

(e) "Health care services" means services and products provided by a health care provider within the scope of the provider's license.

(f) "Health care insurer" means any entity, including, but not limited to:

- (1) Insurance companies;
- (2) Hospital and medical service corporations;
- (3) Health maintenance organizations;
- (4) Preferred provider organizations;
- (5) Physician hospital organizations;
- (6) Third party administrators; and
- (7) Prescription benefit management companies,

authorized to administer, offer, or provide health benefit plans.

History. Acts 1995, No. 505, § 3; 1995, No. 1193, § 1.

CASE NOTES

Cited: Prudential Ins. Co. of America v. 1285 (E.D. Ark. 1997), aff'd, 154 F.3d 812 National Park Medical Ctr., 964 F. Supp. (8th Cir. 1998) (decision under prior law).

23-99-204. Terms of health benefit plan.

(a) A health care insurer shall not, directly or indirectly:

(1)(A) Impose a monetary advantage or penalty under a health benefit plan that would affect a beneficiary's choice among those health care providers who participate in the health benefit plan according to the terms offered.

(B) "Monetary advantage or penalty" includes:

(i) A higher copayment;

(ii) A reduction in reimbursement for services; or

(iii) Promotion of one (1) health care provider over another by these methods;

(2) Impose upon a beneficiary of health care services under a health benefit plan any copayment, fee, or condition that is not equally

imposed upon all beneficiaries in the same benefit category, class, or copayment level under that health benefit plan when the beneficiary is receiving services from a participating health care provider pursuant to that health benefit plan; or

(3) Prohibit or limit a health care provider that is qualified under § 23-99-203(d) and is willing to accept the health benefit plan's operating terms and conditions, schedule of fees, covered expenses, and utilization regulations and quality standards, from the opportunity to participate in that plan.

(b) Nothing in this subchapter shall prevent a health benefit plan from instituting measures designed to maintain quality and to control costs, including, but not limited to, the utilization of a gatekeeper system, as long as such measures are imposed equally on all providers in the same class.

History. Acts 1995, No. 505, § 4; 1995, No. 1193, § 2.

23-99-205. Construction.

(a) Nothing in this subchapter shall be construed to require any health care insurer to cover any specific health care service.

(b) Provided, however, no condition or measure shall have the effect of excluding any type or class of provider qualified under § 23-99-204(a)(3) to provide that service.

History. Acts 1995, No. 505, § 5; 1995, No. 1193, § 3.

CASE NOTES

In General.

This subchapter is preempted by the federal Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et

seq. *Prudential Ins. Co. of America v. National Park Medical Ctr.*, 964 F. Supp. 1285 (E.D. Ark. 1997), *aff'd*, 154 F.3d 812 (8th Cir. 1998) (decision under prior law).

23-99-206. Violations.

It is a violation of this subchapter for any health care insurer or other person or entity to provide any health benefit plan providing for health care services to residents of this state that does not conform to this subchapter, but nothing in this subchapter shall constitute a violation on the basis of actions taken by the health benefit plan to maintain quality, enforce utilization regulations, and to control costs.

History. Acts 1995, No. 505, § 8.

23-99-207. Civil penalties.

Any person adversely affected by a violation of this subchapter may sue in a court of competent jurisdiction for injunctive relief against the health care insurer and, upon prevailing, shall, in addition to such

relief, recover damages of not less than one thousand dollars (\$1,000), attorney's fees, and costs.

History. Acts 1995, No. 505, § 6.

23-99-208. Void provisions.

(a) To avoid impairment of existing contracts, this subchapter shall only apply to contracts issued or renewed after July 28, 1995.

(b) Any provision in a health benefit plan which is executed, delivered, or renewed, or otherwise contracts for provision of services in this state that is contrary to this subchapter, shall, to the extent of the conflict, be void.

History. Acts 1995, No. 505, § 7; 1995, No. 1193, § 4.

23-99-209. Applicability.

The provisions of this subchapter shall not apply to self-funded or other health benefit plans that are exempt from state regulation by virtue of the Employee Retirement Income Security Act of 1974, as amended.

History. Acts 1995, No. 1193, § 5. referred to in this section, is codified as 29 U.S.C. § 1001 et seq.
U.S. Code. The Employee Retirement Income Security Act of 1974, as amended,

CASE NOTES

In General.

This subchapter is preempted by the federal Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., and a permanent injunction of the enforcement of this subchapter has been granted. *Prudential Ins. Co. of America v. National Park Medical Ctr.*, 964 F. Supp. 1285 (E.D. Ark. 1997), aff'd, 154 F.3d 812 (8th Cir. 1998) (decision under prior law).

SUBCHAPTER 3 — PRIMARY EYE CARE PROVIDER ACT

SECTION.

- 23-99-301. Short title.
- 23-99-302. Definitions.
- 23-99-303. Requirements for health benefit plans.

SECTION.

- 23-99-304. Subchapter not to prevent treatment.
- 23-99-305. Remedies.

A.C.R.C. Notes. Acts 1995, No. 515, § 8, provided: "All laws and parts of laws in conflict with this act are hereby repealed. All of the terms and conditions of this act shall remain in effect in their entirety unless and until a section or subsection is specifically cited and repealed by subsequent legislation, or is

found to be invalid by a court of competent jurisdiction."

Acts 1995, No. 1092, § 9, provided: "All laws and parts of laws in conflict with this act are hereby repealed. All of the terms and conditions of this act shall remain in effect in their entirety unless and until a section or subsection is specifically cited

and repealed by subsequent legislation, or is found to be invalid by a court of competent jurisdiction.”

Effective Dates. Acts 1995, No. 515, § 9: Mar. 2, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly that creation of the position of primary eye care provider in health benefit plans and elimination of any form of discrimination among such providers is in the public interest and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 1092, § 6, provided:

“Section 9 of Act 515 of 1995 is hereby repealed and Act 515 shall become effective on July 1, 1995.”

Acts 1995, No. 1092, § 10: Apr. 10, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly that creation of the position of primary eye care provider in health benefit plans and elimination of any form of discrimination among such providers is in the public interest and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

23-99-301. Short title.

This subchapter shall be known and may be cited as the “Primary Eye Care Provider Act”.

History. Acts 1995, No. 515, § 1; 1995, No. 1092, § 1.

23-99-302. Definitions.

As used in this subchapter:

(1) “Covered persons” means any individual or family that is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide eye and/or vision care benefits;

(2) “Covered service” means those health care services; including eye and/or vision care benefits, which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy;

(3)(A) “Eye and/or vision care benefits” means those services and materials which are provided by a primary eye care provider who is functioning within the scope of his or her license.

(B) The conditions imposed by any specific health benefit plan upon the provision of eye and/or vision care benefits shall not:

(i) Prohibit the primary eye care provider from providing covered services to covered persons at his or her highest level of licensure and competence at any given time, as determined by his or her respective licensing board; or

(ii) Require that the primary eye care provider hold hospital staff privileges or include any other condition as a requirement which would have the practical effect of excluding any class of provider from participation in the plan;

(4) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system;

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan;

(6) "Health benefit plan" means any public or private health plan, program, policy, subscriber agreement, or contract implemented in the State of Arkansas which includes or may include payment, reimbursement, including capitation, or financial compensation for provision of eye and/or vision care benefits to covered persons but does not include workers' compensation coverage or reimbursement;

(7) "Health care insurer" means any entity, including, but not limited to, insurance companies, hospital and medical service corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the State of Arkansas to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of a similar nature which indemnify or compensate health care providers for the provision of health care services; and

(8) "Primary eye care provider" means an ophthalmologist or optometrist licensed by the State of Arkansas who has been selected by a person covered by a health benefit plan to provide eye and/or vision care benefits and who agrees to provide these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

History. Acts 1995, No. 515, § 2; 1995, No. 1092, § 2.

23-99-303. Requirements for health benefit plans.

A health benefit plan that includes, or may include, eye and/or vision care benefits shall:

(1) Include all primary eye care providers who are selected by covered persons of the plan for the provision of all eye and/or vision care benefits provided by the plan;

(2) Permit any licensed optometrist or ophthalmologist who agrees to abide by the terms, conditions, reimbursement rates, and standards of quality of the health benefit plan to serve as a primary eye care provider to any person covered by that plan;

(3) Guarantee that all covered persons who are eligible for eye and/or vision care benefits under a health benefit plan shall have direct access to the primary eye care provider of their choice independent of, and without referral from, any other provider or entity;

(4)(A) Assure that those plans utilizing a gatekeeper system shall designate the primary eye care provider as the gatekeeper who shall provide basic patient care and coordinate diagnostic testing, indi-

cated treatment, and specialty referral for those covered persons in the provision of eye and/or vision care benefits.

(B)(i) Nothing in this subchapter shall prevent a covered person from having direct access to that person's primary care provider, or gatekeeper, for the treatment of eye disease or injury and being reimbursed in accordance with the terms and fee schedule of the health benefit plan.

(ii) However, nothing contained in this subchapter shall require payment of the monthly patient management fee by the Arkansas Medicaid Program to a primary eye care provider gatekeeper;

(5) Not discriminate between individual providers or classes of providers in the amount of reimbursement, copayment, or other financial compensation for the same or essentially similar services provided by the health benefit plan;

(6) Not promote or recommend any individual provider or class of providers to a covered person by any method or means;

(7) Assure that all primary eye care providers selected by persons covered by a health benefit plan are included on the list of participating providers of the plan;

(8) Assure that an adequate number of primary eye care providers are included to guarantee reasonable accessibility, timeliness of care, convenience, and continuity of care to covered persons; and

(9) Make available to covered persons a listing of all primary eye care providers, their practice locations, and telephone numbers on a regular, timely basis.

History. Acts 1995, No. 515, § 3; 1995, No. 1092, § 3.

23-99-304. Subchapter not to prevent treatment.

Nothing in this subchapter shall prevent any person covered by a health benefit plan from receiving emergency eye care nor shall it prevent any person from exercising his or her right to receive treatment from his or her personal doctor and being reimbursed in accordance with the terms and fee schedule of the health benefit plan.

History. Acts 1995, No. 515, § 4; 1995, No. 1092, § 4.

23-99-305. Remedies.

Any person adversely affected by a violation of this subchapter may bring action in a court of competent jurisdiction for injunctive relief against the health care insurer and, upon prevailing, in addition to such injunctive relief, shall recover damages not less than one thousand dollars (\$1,000) plus attorney's fees and costs.

History. Acts 1995, No. 515, § 5; 1995, No. 1092, § 5.

SUBCHAPTER 4 — ARKANSAS HEALTH CARE CONSUMER ACT

SECTION.

- 23-99-401. Short title.
- 23-99-402. Legislative findings and intent.
- 23-99-403. Definitions.
- 23-99-404. Benefits for mothers and newborns.
- 23-99-405. Mastectomies.
- 23-99-406. Obstetrical and gynecological services.
- 23-99-407. "Gag clause" prohibition.

SECTION.

- 23-99-408. Continuity of care.
- 23-99-409. Prescription drug formulary.
- 23-99-410. Grievance procedures.
- 23-99-411. Processing applications of providers.
- 23-99-412. Provider input.
- 23-99-413. Disclosure requirements.
- 23-99-414. Regulations.
- 23-99-415. Enforcement and penalties.
- 23-99-416. Application of subchapter.

RESEARCH REFERENCES

UALR L.J. Battaglia, The Shift Toward Managed Care and Emerging Liability Claims Arising from Utilization Management and Financial Incentive Arrangements Between Health Care Providers and Payers, 19 UALR L.J. 155.

23-99-401. Short title.

This subchapter shall be known and may be cited as the "Arkansas Health Care Consumer Act".

History. Acts 1997, No. 1196, § 1.

23-99-402. Legislative findings and intent.

As the state's insurance sector becomes increasingly dominated by managed care features that include decisions regarding coverage and appropriateness of health care, there is a vital need to protect patients in this environment.

History. Acts 1997, No. 1196, § 2.

23-99-403. Definitions.

As used in this subchapter:

- (1) "Acute condition" means a medical condition, illness, or disease having a short and relatively severe course;
- (2) "Commissioner" means the Insurance Commissioner;
- (3) "Covered person" means a person on whose behalf the health care insurer issuing or delivering the health benefit plan is obligated to pay benefits pursuant to the health benefit plan;
- (4) "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in this state, including indemnity and managed care plans and including governmental plans as defined in 29 U.S.C. § 1002(32), but excluding plans providing health care services pursuant to Arkansas Constitution, Article 5, § 32, the Workers' Compensation

tion Law, § 11-9-101 et seq., and the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(5) "Health care insurer" or "insurer" means any insurance company, hospital and medical service corporation, or health maintenance organization issuing or delivering health benefit plans in this state and subject to the following laws:

(A) The Arkansas Insurance Code;

(B) Section 23-76-101 et seq., pertaining to health maintenance organizations;

(C) Section 23-75-101 et seq., pertaining to hospital and medical service corporations; and

(D) Any successor laws of the foregoing;

(6) "Managed care plan" means a health benefit plan that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use, participating providers;

(7) "Participating provider" means a provider who or which has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health care insurer;

(8) "Person" means and includes, individually and collectively, any individual, corporation, partnership, firm, trust, association, voluntary organization, or any other form of business enterprise or legal entity. "Entity" shall have the same meaning;

(9) "Policyholder" means the employer, union, individual, or other person or entity that purchases the health benefit plan;

(10) "Specialty" means a provider's particular area of specialty within his or her licensed scope of practice; and

(11) "Type" of provider means the licensed scope of practice.

History. Acts 1997, No. 1196, § 3.

originally enacted by Acts 1959, No. 148.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-99-404. Benefits for mothers and newborns.

(a)(1) Except as provided in subsection (b) of this section, a health care insurer may not restrict benefits for any hospital stay in connection with childbirth for the mother or newborn child to less than forty-eight (48) hours following a normal vaginal delivery or to less than ninety-six (96) hours following cesarean section.

(2) A health care insurer may not require that a provider obtain authorization for prescribing any length of stay required under subdivision (a)(1) of this section.

(b) Subdivision (a)(1) of this section shall not apply if the decision to discharge the mother or her newborn child prior to the expiration of the minimum stay is made by the attending physician in consultation with the mother.

History. Acts 1997, No. 1196, § 4.

23-99-405. Mastectomies.

(a) Every health benefit plan providing mastectomy benefits and issued or renewed after July 16, 2003, shall conform with the requirements of the Women's Health and Cancer Rights Act of 1998, 42 U.S.C. §§ 300gg-6 and 300gg-52, as it existed on January 1, 2003.

(b) To the extent the requirements of this section do not conflict with federal law, rules, or regulations, each health care insurer providing mastectomy benefits in a health benefit plan shall provide, in a manner determined in consultation with the attending physician and the enrollee or insured:

(1) For medical and surgical benefits for any hospital stay in connection with a mastectomy for not less than forty-eight (48) hours unless the decision to discharge the patient before the expiration of the minimum length of stay is made by an attending physician in consultation with the enrollee or insured;

(2) The following medical and surgical benefits with respect to mastectomy coverage if an enrollee or insured receives benefits in connection with a mastectomy and elects breast reconstruction:

(A) Surgery and reconstruction of the breast on which the mastectomy has been performed;

(B) Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

(C) Prostheses and coverage for physical complications at all stages of a mastectomy, including lymphedemas; and

(3) Written notice of the availability of coverage under this section to the enrollee or insured upon enrollment and annually thereafter.

(c) No health care insurer providing mastectomy benefits under this section shall:

(1) Deny an enrollee or insured eligibility or continued eligibility to enroll or renew coverage under the terms of the health plan solely for the purpose of avoiding the requirements of this section; or

(2) Penalize, reduce, or limit the reimbursement of an attending provider or induce the provider to provide care in a manner inconsistent with this section.

History. Acts 1997, No. 1196, § 5; **Amendments.** The 2003 amendment 2003, No. 179, § 1. rewrote this section.

23-99-406. Obstetrical and gynecological services.

(a) In order to ensure that health care benefits are safely and appropriately delivered to women, insurers which require the selection or assignment of a primary care physician shall allow each covered person who is a woman to select a participating obstetrician/gynecologist in addition to her primary care physician.

(b) If the woman chooses to make this selection, the insurer shall allow the woman to go directly to her selected obstetrician/gynecologist,

without referral from her primary care physician, for obstetrical and gynecological services.

History. Acts 1997, No. 1196, § 6.

23-99-407. “Gag clause” prohibition.

No participating provider may be prohibited, restricted, or penalized in any way from disclosing to any covered person any health care information that the provider deems appropriate regarding the nature of treatment, risks, or alternatives thereto, the availability of alternate therapies, consultations, or tests, the decision of utilization reviewers or similar persons to authorize or deny services, the process that is used to authorize or deny health care services or benefits, or information on financial incentives and structures used by the insurer.

History. Acts 1997, No. 1196, § 7.

23-99-408. Continuity of care.

(a) When health care insurers use participating providers, the insurers shall develop procedures to provide for the continuity of care of their covered persons. At a minimum, the procedures shall:

(1) Ensure that when a new patient is enrolled in a health benefit plan and is being treated by a nonparticipating provider for a current episode of an acute condition, the patient may continue to receive treatment as an in-network benefit from that provider until the current episode of treatment ends or until the end of ninety (90) days, whichever occurs first;

(2) Ensure that when a provider’s participation is terminated, his or her patients under the plan may continue to receive care from that provider as an in-network benefit until a current episode of treatment for an acute condition is completed or until the end of ninety (90) days, whichever occurs first; and

(3) Explain how the covered person may request to continue services under subdivisions (a)(1) and (2) of this section.

(b) During the period covered by subdivisions (a)(1) and (2) of this section, the provider shall be deemed to be a participating provider for purposes of reimbursement, utilization management, and quality of care.

(c) Nothing in this section shall require a health care insurer to provide benefits that are not otherwise covered under the terms and provisions of the plan.

History. Acts 1997, No. 1196, § 8.

23-99-409. Prescription drug formulary.

When a health care insurer uses a formulary for prescription drugs, the insurer shall include a written procedure whereby covered persons

can obtain, without penalty and in a timely fashion, specific drugs and medications not included in the formulary when:

(1) The formulary's equivalent has been ineffective in the treatment of the covered person's disease or condition; or

(2) The formulary's drug causes or is reasonably expected to cause adverse or harmful reactions in the covered person.

History. Acts 1997, No. 1196, § 9.

23-99-410. Grievance procedures.

(a) A health care insurer issuing or delivering a managed care plan shall establish for those managed care plans a grievance procedure which provides covered persons with a prompt and meaningful review on the issue of denial, in whole or in part, of a health care treatment or service.

(b)(1) The covered person shall be provided prompt notice in writing of the outcome of the grievance procedure.

(2) In the event the outcome is adverse to the covered person, the notice shall include specific findings related to the grievance.

History. Acts 1997, No. 1196, § 10.

23-99-411. Processing applications of providers.

(a)(1) Health care insurers shall establish mechanisms to ensure timely processing of requests for participation or renewal by providers and in making decisions that affect participation status. These mechanisms shall include, at a minimum, provisions for the provider to receive a written statement of reasons for the health care insurer's denial of a request for initial participation or renewal.

(2) Health care insurers shall make a decision within one hundred eighty (180) days of submission of a completed application for participation or a request for renewal.

(b) Nothing in this section shall prevent a provider or a health care insurer from terminating a participating provider contract in accordance with its terms.

History. Acts 1997, No. 1196, § 11.

23-99-412. Provider input.

All health care insurers issuing or delivering managed care plans shall be required to establish a mechanism whereby participating providers provide input into the insurer's medical policy, utilization review criteria and procedures, quality and credentialing criteria, and medical management procedures.

History. Acts 1997, No. 1196, § 12.

23-99-413. Disclosure requirements.

Upon request, health care insurers must provide the following information in a clear and understandable form to all prospective policyholders, policyholders, and covered persons. Insurers shall notify policyholders and covered persons of their right to request the information, which must include:

(1) Coverage provisions, benefits, and exclusions by category of service and provider;

(2) A description of the prior authorization, precertification, and referral requirements;

(3) The existence of prescription drug formularies and prior approval requirements for prescription drugs;

(4) The name, number, type, specialty, and geographic location of participating providers; and

(5)(A) Criteria by which providers are evaluated for network participation.

(B) Proprietary information shall not be disclosed.

(C) Criteria may include, but are not limited to, geographic limitations, geographic distribution of patients, specialty limitation, anticipated numbers and types of providers needed, and economic considerations. This information shall also be made available to providers upon request.

History. Acts 1997, No. 1196, § 13.

23-99-414. Regulations.

The Insurance Commissioner may promulgate necessary rules and regulations for carrying out this subchapter.

History. Acts 1997, No. 1196, § 14.

23-99-415. Enforcement and penalties.

The Insurance Commissioner shall have all the powers to enforce this subchapter as are granted to the commissioner elsewhere in the Arkansas Insurance Code.

History. Acts 1997, No. 1196, § 15.

originally enacted by Acts 1959, No. 148.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-99-416. Application of subchapter.

This subchapter applies to all health benefit plans issued, renewed, extended, or modified on or after August 1, 1997. "Renewed, extended, or modified" shall include all health benefit plans in which the insurer has reserved the right to change the premium.

History. Acts 1997, No. 1196, § 16.

SUBCHAPTER 5 — ARKANSAS MENTAL HEALTH PARITY ACT

SECTION.

- 23-99-501. Short title.
23-99-502. Legislative findings and intent.
23-99-503. Definitions.
23-99-504. Exclusions.
23-99-505. Increased cost exemption.

SECTION.

- 23-99-506. Parity requirements.
23-99-507. Medical necessity.
23-99-508. Permitted provisions.
23-99-509. Applicability.
23-99-510. Rules and regulations.
23-99-511. Enforcement.

23-99-501. Short title.

This subchapter shall be known and may be cited as the “Arkansas Mental Health Parity Act”.

History. Acts 1997, No. 1020, § 1.

23-99-502. Legislative findings and intent.

It is the intent of this state that insurance coverage for mental illnesses and the mental health treatment of those with developmental disorders shall be as available and at parity with that for other medical illnesses.

History. Acts 1997, No. 1020, § 2.

23-99-503. Definitions.

As used in this subchapter:

(1) “Carve-out arrangement” means an arrangement in which a health care insurer contracts with a separate person or entity to arrange for the delivery of specific types of health care benefits under a health benefit plan;

(2) “Commissioner” means the Insurance Commissioner;

(3) “Financial requirements” means copayments, deductibles, out-of-network charges, out-of-pocket contributions or fees, annual limits, lifetime aggregate limits imposed on individual patients, and other patient cost-sharing amounts;

(4) “Health benefit plan” means any group or blanket plan, policy, or contract for health care services issued or delivered in this state by health care insurers, including indemnity and managed care plans, but excluding plans providing health care services to state employees or pursuant to Arkansas Constitution, Article 5, § 32, the Workers’ Compensation Law, § 11-9-101 et seq., and the Public Employee Workers’ Compensation Act, § 21-5-601 et seq.;

(5) “Health care insurer” means any insurance company, hospital and medical service corporation, or health maintenance organization issuing or delivering health benefit plans in this state and subject to any of the following laws:

(A) The Arkansas Insurance Code;

(B) Section 23-75-101 et seq., pertaining to hospital and medical service corporations;

(C) Section 23-76-101 et seq., pertaining to health maintenance organizations; and

(D) Any successor law of the foregoing;

(6) "Mental illnesses" and "developmental disorders" mean those illnesses and disorders listed in the International Classification of Diseases Manual and the Diagnostic and Statistical Manual of Mental Disorders;

(7) "Person" or "entity" means and includes, individually and collectively, any individual, corporation, partnership, firm, trust, association, voluntary organization, or any other form of business enterprise or legal entity; and

(8) "Small employer" means any person or entity actively engaged in business who, on at least fifty percent (50%) of its working days during the preceding year, employed no more than fifty (50) eligible employees.

History. Acts 1997, No. 1020, § 3.

originally enacted by Acts 1959, No. 148.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-99-504. Exclusions.

This subchapter shall not apply to:

- (1) Dental insurance plans;
- (2) Vision insurance plans;
- (3) Specified-disease insurance plans;
- (4) Accidental injury insurance plans;
- (5) Long-term care plans;
- (6) Disability income plans;

(7) Individual health benefit plans, provided that health care insurers shall offer individuals the option of purchasing a plan that, other than being optional, meets all the other requirements of this subchapter;

(8) Health benefit plans for small employers, provided that health care insurers shall offer purchasers the option of purchasing a plan that, other than being optional, meets all the other requirements of this subchapter; and

(9) Medicare supplement plans, as subject to section 1882(g)(1) of the Social Security Act.

History. Acts 1997, No. 1020, § 8.

Social Security Act, referred to in (a), is

U.S. Code. Section 1882(g)(1) of the

codified as 42 USC § 1395ss(g)(1).

23-99-505. Increased cost exemption.

(a) This subchapter shall not apply with respect to a health benefit plan if the application of this subchapter to the plan will result in an increase in the cost under the plan of at least one and one-half percent (1.5%).

(b) The Insurance Commissioner shall develop regulations to implement this exemption and, in doing so, may look for guidance in the

regulations promulgated by the federal Department of Health and Human Services in implementing the Mental Health Parity Act of 1996, Pub. L. No. 104-204, section 712(c)(2).

History. Acts 1997, No. 1020, § 9.

712(c), referred to in this section, is noted

U.S. Code. The Mental Health Parity

under 29 U.S.C. § 1185a.

Act of 1996, Pub. L. No. 104-204, Sec.

23-99-506. Parity requirements.

(a) Except as provided in § 23-99-504, every health benefit plan shall provide medical coverage for the diagnosis and mental health treatment of mental illnesses and the mental health treatment of those with developmental disorders.

(b) A health benefit plan shall provide benefits for diagnosis and mental health treatment of mental illnesses and developmental disorders under the same terms and conditions as provided for covered benefits offered under the health benefit plan for the treatment of other medical illnesses or conditions. There shall be no differences in the health benefit plan in regard to any of the following:

(1) The duration or frequency of coverage;

(2) The dollar amount of coverage; or

(3) Financial requirements.

(c) Nothing in this subchapter shall be construed:

(1) As requiring equal coverage between treatments for a mental illness or a developmental disorder with coverage for preventive care;

(2) As prohibiting a health care insurer from:

(A) Negotiating separate reimbursement rates and service delivery systems, including, but not limited to, a carve-out arrangement;

(B) Managing the provision of mental health benefits for mental illnesses and the mental health treatment of those with developmental disorders by common methods used for other medical conditions, including, but not limited to, preadmission screening, prior authorization of services, or other mechanisms designed to limit coverage of services for mental illnesses and developmental disorders to those that are deemed medically necessary;

(C) Limiting covered services to those authorized by the health insurance policy, provided that such limitations are made in accordance with this subchapter;

(D) Using separate but equal cost-sharing features for mental illnesses or developmental disorders as for other medical illness; or

(E) Using a single lifetime or annual dollar limit as applicable to other medical illness; and

(3) As including a medicare or medicaid plan or contract or any privatized risk or demonstration program for medicare or medicaid coverage.

History. Acts 1997, No. 1020, § 4.

23-99-507. Medical necessity.

(a) This subchapter shall not be construed as prohibiting a health benefit plan from excluding coverage for diagnosis and treatment of mental illnesses and developmental disorders when the diagnosis and treatment are medically unnecessary, provided that the medical necessity determination is made in accordance with generally accepted standards of the medical profession and other applicable laws and regulations.

(b) "Medical necessity" as applied to benefits for mental illnesses and developmental disorders means:

(1) Reasonable and necessary for the diagnosis or treatment of a mental illness or to improve or to maintain or to prevent deterioration of functioning resulting from the illness or developmental disorder;

(2) Furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(3) The most appropriate level or supply of service which can safely be provided; and

(4) Could not have been omitted without adversely affecting the individual's mental or physical health, or both, or the quality of care rendered.

History. Acts 1997, No. 1020, § 5.

23-99-508. Permitted provisions.

(a) A health care insurer may at the insurer's option provide coverage for a health service, such as intensive case management, community residential treatment programs, or social rehabilitation programs, which is used in the treatment of mental illnesses or developmental disorders, but is generally not used for other injuries, illnesses, and conditions, as long as the other requirements of this subchapter are met.

(b) Health care insurers providing chemical dependency treatment or educational remediation may, but are not required to, comply with the terms of this subchapter in regard to the treatment or remediation.

(c) A health care insurer may provide coverage for a health service, including, but not limited to, physical rehabilitation or durable medical equipment, which generally is not used in the diagnosis or treatment of serious mental illnesses, but is used for other injuries, illnesses, and conditions, as long as the other requirements of this subchapter are met.

History. Acts 1997, No. 1020, § 6.

23-99-509. Applicability.

(a) On or after August 1, 1997, this subchapter shall apply to health benefit plans on the plans' anniversaries or start dates but in no event later than one (1) year after August 1, 1997.

(b) If a health benefit plan provides coverage or benefits to an Arkansas resident, the plan shall be deemed to be delivered in this state within the meaning of this subchapter, regardless of whether the health care insurer or other entity that provides the coverage is located within or outside of Arkansas.

History. Acts 1997, No. 1020, § 7.

23-99-510. Rules and regulations.

The Insurance Commissioner shall enforce this subchapter and shall promulgate necessary rules and regulations for carrying out this subchapter.

History. Acts 1997, No. 1020, § 10.

23-99-511. Enforcement.

The Insurance Commissioner shall have all the powers to enforce this subchapter as are granted to the commissioner elsewhere in the Arkansas Insurance Code.

History. Acts 1997, No. 1020, § 11.	originally enacted by Acts 1959, No. 148.
A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was	Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

SUBCHAPTER 6 — DENTAL POINT OF SERVICE ACT.

SECTION.	SECTION.
23-99-601. Short title.	23-99-606. Insurance Commissioner's enforcement authority.
23-99-602. Legislative findings.	23-99-607. Duty of Attorney General to defend.
23-99-603. Definitions.	23-99-608. Applicability of subchapter.
23-99-604. Coverage for out-of-network dentists.	
23-99-605. Rules and regulations.	

23-99-601. Short title.

This subchapter shall be cited as the “Dental Point of Service Act”.

History. Acts 1999, No. 1232, § 1.

23-99-602. Legislative findings.

The General Assembly finds that the quality of dental care is improved through patient choice among dentists and that utilization of dentists varies less than utilization of other providers. Patients should have the freedom to go to dentists outside their managed care network when the carrier is not required to pay the dentist more than it pays in-network dentists. Therefore, health carriers should be required to offer a point-of-service option for dental care.

History. Acts 1999, No. 1232, § 2.

23-99-603. Definitions.

As used in this subchapter:

- (1) "Commissioner" means the Insurance Commissioner;
- (2) "Covered person" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan;
- (3) "Dentist" means a person licensed under the Arkansas Dental Practice Act, § 17-82-101 et seq.;
- (4) "Health care service" means that service offered or provided by the health care providers within the scope of their practice and relating to the prevention, cure, or treatment of illness or disease;
- (5) "Health carrier" means any insurance company, health maintenance organization, or hospital and medical service corporation as defined in § 23-75-101, subject to the following laws:
 - (A) The Arkansas Insurance Code;
 - (B) Provisions pertaining to health maintenance organizations, § 23-76-101 et seq.; and
 - (C) Any successor laws of the foregoing; and
- (6) "Health plan" means any policy, contract, or agreement offered by a health carrier to provide, reimburse, or pay for health care services except the following:
 - (A) Workers' compensation coverage;
 - (B) Self-funded or self-insured health plans, unless the plan is established or maintained for employees of a governmental entity; and
 - (C) A policy, contract, or agreement that limits coverage for dental services in connection with the treatment of a covered accidental injury or the treatment of a nondental physiological condition.

History. Acts 1999, No. 1232, § 3.

originally enacted by Acts 1959, No. 148.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-99-604. Coverage for out-of-network dentists.

(a) Every health plan which provides dental benefits issued, renewed, extended, or modified by a health carrier shall also include a point-of-service option which provides benefits to covered persons through dentists who are not members of the carrier's provider network.

(b)(1) The benefits offered under this option shall be the same as those offered through the network.

(2) The rate of reimbursement for out-of-network dentists may differ from the rate of reimbursement for noncapitated dentists in the network but by no more than ten percent (10%).

(3) The copayment, coinsurance, and other cost-sharing features may differ between the use of in-network and out-of-network dentists but by no more than twenty-five percent (25%).

(c) The out-of-network dentist may bill the patient for the balance of any charges which are not otherwise reimbursed by the health carrier. However, if after a request by the covered person in advance of treatment the provider fails to disclose a reasonable range of the total of charges for nonemergency services to be provided, the covered person shall not be liable for such additional charges.

(d) The health carrier shall fully disclose to the covered person, in clear, understandable language, the terms and conditions of this option. This requirement may be satisfied by the health carrier's providing to the employer or other purchaser of the plan presentation materials for dissemination to covered persons.

History. Acts 1999, No. 1232, § 4.

23-99-605. Rules and regulations.

Within one hundred twenty (120) days of July 30, 1999, the Insurance Commissioner shall promulgate necessary rules and regulations for carrying out this subchapter, giving maximum possible effect to the General Assembly's intent to promote quality medical care through increased choice.

History. Acts 1999, No. 1232, § 5.

23-99-606. Insurance Commissioner's enforcement authority.

The Insurance Commissioner shall enforce this subchapter, using the powers granted to the commissioner elsewhere in the Arkansas Insurance Code.

History. Acts 1999, No. 1232, § 6.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

originally enacted by Acts 1959, No. 148.

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-99-607. Duty of Attorney General to defend.

In any legal proceeding in which the validity of this subchapter is challenged, the Attorney General shall defend the subchapter regardless of the state agency or official named as an official party.

History. Acts 1999, No. 1232, § 7.

23-99-608. Applicability of subchapter.

This subchapter applies to health plans issued, renewed, extended, or modified by a health carrier on or after July 30, 1999. "Renewed, extended, or modified" shall include a change in premium or other financial term.

History. Acts 1999, No. 1232, § 8.

SUBCHAPTER 7 — GRIEVANCE SYSTEMS AND QUALITY ASSESSMENT AND IMPROVEMENT SYSTEMS

SECTION.

23-99-701. Legislative findings.

23-99-702. Definitions.

23-99-703. Grievance system.

23-99-704. Quality assessment and improvement systems.

SECTION.

23-99-705. Applicability and scope.

23-99-706. Enforcement and penalties.

Effective Dates. Acts 1999, No. 1200, § 10: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that those dramatic changes affecting health care delivery to the citizens of Arkansas require the state to oversee the quality of health care processes and out-

comes to protect its citizens and to improve their quality of life. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

23-99-701. Legislative findings.

The General Assembly finds and declares the following:

(1) The State of Arkansas has an interest in protecting its citizens and in pursuing reasonable means to improve the quality of life and health of those citizens;

(2) In the health care field, the State of Arkansas has traditionally regulated utilization review as well as the quality of care provided by health care providers, insurance companies, and organizations which assume the risk of providing health care services for citizens of this state, such as health maintenance organizations; and

(3) Dynamic changes in how health care is delivered to citizens of this state require the state to oversee the quality of health care processes and outcomes resulting from health carriers and networks.

History. Acts 1999, No. 1200, § 1.

23-99-702. Definitions.

As used in this subchapter:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Director" means the Director of the Department of Health;

(3) "Health care services" means any services included in the furnishing to any individual of medical or dental care, hospitalization, or services incident to the furnishing of care or hospitalization, as well as the furnishing to any person of any and all other services or goods for the purpose of preventing, alleviating, curing, or healing human illness or injury;

(4) "Health carrier" means any person who undertakes to provide or arrange for one (1) or more managed care plans;

(5) "Managed care plan" means any arrangement whereby a health carrier undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services, and at least part of the arrangement consists of arranging for or the provision of health care services as distinguished from mere indemnifications against the cost of the services on a prepaid basis through insurance or otherwise; and

(6) "Network" when used to describe a provider of health services, including, but not limited to, a hospital, physician, home health agency, pharmacy, etc., means that the provider has a participation agreement in effect with a health carrier, directly or through another entity, to provide health services to covered persons.

History. Acts 1999, No. 1200, § 2.

23-99-703. Grievance system.

(a) All health carriers and networks shall make arrangements for handling and resolving grievances.

(b) Each health carrier and network shall:

(1) Maintain records of grievances filed with the health carrier and network concerning the quality of health care services; and

(2) Submit in the form and manner prescribed by the Director of the Department of Health a periodic report which shall include:

(A) A written description of the processes and procedures for resolving grievances; and

(B) The total number of grievances handled through the grievance system, including a compilation of the dates of the grievances, the reason for the grievances, and resolutions of each grievance.

(c) In consultation with the Insurance Commissioner, the director may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns expressed through grievances.

History. Acts 1999, No. 1200, § 3.

23-99-704. Quality assessment and improvement systems.

(a) Each health carrier and network shall:

(1) Make arrangements for measuring and improving the quality of health care services;

(2) Maintain quality assessment and improvement programs and records measuring the outcomes of health care services; and

(3) Submit to the Director of the Department of Health in the time, manner, and form prescribed the following information:

(A) A written description of any quality assessment and quality improvement systems; and

(B) Findings of relevant quality data as determined by the director.

(b) In consultation with the Insurance Commissioner, the director may promulgate rules and regulations in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to carry out the provisions of this subchapter to enable the state to be properly informed of quality issues within the state and to adequately respond to any quality concerns found through the outcome data.

(c) The provisions of §§ 16-46-105 and 20-9-501 et seq. shall apply to all records maintained pursuant to this subchapter.

History. Acts 1999, No. 1200, § 4.

23-99-705. Applicability and scope.

(a) This subchapter shall not apply to disability income, specified disease, medicare supplement, hospital indemnity, accident-only policies, long-term care, short-term limited duration insurance, and all other supplemental insurance products issued by health carriers.

(b) In terms of the Director of the Department of Health's regulatory authority pursuant to §§ 23-99-703 and 23-99-704, such authority shall apply to the quality of care provided by health carriers and networks operating in this state and shall not apply to the benefits offered by any health carrier and network or to the administration of such benefits.

History. Acts 1999, No. 1200, § 5.

23-99-706. Enforcement and penalties.

The Director of the Department of Health shall have the power to implement and enforce this subchapter.

History. Acts 1999, No. 1200, § 6.

CHAPTER 100

INSURANCE FRAUD INVESTIGATION DIVISION TRUST FUND ACT

SECTION.

23-100-101. Title.

23-100-102. Insurers' payment extensions — Penalties for non-compliance — Insurance Commissioner's waiver for impaired or insolvent insurers.

23-100-103. Insurance Fraud Investigation Division Trust Fund — Creation.

23-100-104. Antifraud assessment.

SECTION.

23-100-105. Insurers' antifraud fees — Deposit into Insurance Fraud Investigation Division Trust Fund.

23-100-106. Rules and regulations.

23-100-107. Insurance Fraud Investigation Division Trust Fund — Department vouchers and Auditor of State warrants.

Cross References. State Insurance Department Trust Fund, § 19-5-922.

State Insurance Department Trust Fund Act, § 23-61-701 et seq.

Fraudulent Insurance Acts Prevention, § 23-66-501 et seq.

Effective Dates. Acts 1997, No. 337, § 11: Mar. 3, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the Arkansas Insurance Code is in immediate need of revision to protect the insurance-buying consumers of this State; that the provisions of this act are essential to the operations and activities of the Insurance Fraud Investigation Division of the Arkansas Insurance Department which are intended to provide protection to the insurance-buying consumers of this State and delay in the effective date of this act would work irreparable harm upon the proper administration and provision of essential government programs. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 881, § 28: Mar. 25, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly of the State of Arkansas that the present funeral pre-need laws, employee leasing firm laws, and other insurance laws are inadequate to protect the public. In pertinent part, the changes to the Insurance Code needed to assure the stability of funding for the Fraud Investigation Division of the Department must be enacted in the laws of this state well before the new fiscal year beginning July 1, 1999. The changes to authorized appropriations, as well as changes to the disability (health) insurance laws on individuals to conform to the federal laws on group policies with guaranteed renewability require immediate adoption; and unless this emergency clause is adopted, this act might not become effective until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-100-101. Title.

This chapter shall be known as the "Insurance Fraud Investigation Division Trust Fund Act".

History. Acts 1997, No. 337, § 1.

23-100-102. Insurers' payment extensions — Penalties for non-compliance — Insurance Commissioner's waiver for impaired or insolvent insurers.

(a)(1) The Insurance Commissioner may grant any licensed insurer an extension for payment of the antifraud assessment for good cause shown, upon written application of the licensed insurer received at the State Insurance Department on or before each annual due date.

(2) Absent the commissioner's approval of such an extension for good cause, licensed insurers failing timely to pay the antifraud assessment shall be subject to a penalty of one hundred dollars (\$100) per day for each day of delinquency, payable to the Insurance Fraud Investigation Division Trust Fund.

(3)(A) The commissioner may pursue any appropriate legal remedies to collect the antifraud assessments and penalties due and unpaid from any insurer.

(B) Further, the commissioner in his or her discretion may order suspension of the delinquent insurer's Arkansas certificate of authority after notice and hearing until the payment of all such antifraud assessments and penalties is remitted to the fund.

(C) Absent grant of the commissioner's waiver for good cause shown, the commissioner may revoke the Arkansas certificate of authority of any delinquent insurer consistently refusing and failing without good cause to remit payment of these antifraud assessments and penalties to the fund pursuant to this section.

(b)(1) The commissioner in his or her discretion may waive all or any part of the antifraud assessment due annually from a licensed insurer upon:

(A) The suspension or revocation of the insurer's Arkansas certificate of authority;

(B) Issuance of a court order placing the company into conservation, rehabilitation, or liquidation in any state; or

(C) The commissioner's finding that the insurer is impaired or insolvent.

(2) Upon the reinstatement or activation of the insurer's certificate of authority in good standing, the commissioner's waiver automatically terminates, and the insurer shall be liable for payment of the assessment on the next succeeding March 1 without retroactive reimbursement for the amount of the antifraud assessments which would normally have accrued during the waiver period.

History. Acts 1997, No. 337, § 4; 1999, No. 881, § 19.

Amendments. The 1999 amendment, throughout the section, substituted "antifraud assessment" for "administrative and regulatory fee" and for "annual administrative and regulatory fee," and substi-

tuted "administrative assessments" for "fees" and for "administrative and regulatory fees"; in the last sentence of (b), substituted "assessment" for "administrative and regulatory fee"; and made stylistic changes.

23-100-103. Insurance Fraud Investigation Division Trust Fund — Creation.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Insurance Fraud Investigation Division Trust Fund" to be used to defray the expenses of the Insurance Fraud Investigation Division of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law.

(b) No money is to be appropriated from this fund for any purpose except for the personal services and operating expenses, maintenance and operations, and support of and improvements to the division, and at the direction of the Insurance Commissioner, for the use, benefit, and support of the division.

(c) The fund established pursuant to this section shall be administered, disbursed, and invested under the direction of the commissioner and the Treasurer of State.

(d) All income derived through:

(1) Investment of the fund, including, but not limited to, interest and dividends, shall be credited as investment income to the fund; and

(2) Grants, refunds, gifts, or any other sources to the fund shall be credited as income to the fund and deposited therein.

(e) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment, except as may be provided by law.

History. Acts 1997, No. 337, § 2.

23-100-104. Antifraud assessment.

(a)(1) Notwithstanding the provisions of § 26-57-601 et seq., the State Insurance Department Trust Fund Act, § 23-61-701 et seq., and other provisions of Arkansas law, all licensed insurers, including, but not limited to, all licensed stock and mutual insurance companies, reinsurers, health maintenance organizations, fraternal benefit societies, hospital and medical service corporations, stipulated premium insurers, farmers' mutual aid associations, and prepaid legal insurers, shall, not later than June 30, 1997, for the 1996-1997 fiscal year, and thereafter annually on or before June 30 for all subsequent years at the time and in the manner as the Insurance Commissioner shall prescribe, or at times alternate from June 30 annually as the commissioner shall prescribe, pay to the Insurance Fraud Investigation Division Trust Fund, in addition to the premium taxes and fees now required under existing law, a nonrefundable antifraud assessment as directed by the commissioner for the reasonable and necessary expenses and operation of the Insurance Fraud Investigation Division.

(2) Effective for the 1996-1997 fiscal year, all licensed insurers described in subdivision (a)(1) of this section shall pay a one-time antifraud assessment of four hundred dollars (\$400) to the fund. The commissioner may, by rule or regulation, reduce the antifraud assessment to the fund or adjust the antifraud assessment to a maximum of no more than one thousand dollars (\$1,000) per each fiscal year following the 1996-1997 fiscal year.

(b) Approved but nonadmitted surplus line insurers and registered risk retention groups are exempt from payment of the antifraud assessment described in this section.

History. Acts 1997, No. 337, § 3; 1999, No. 881, § 20.

Amendments. The 1999 amendment substituted “antifraud assessment” for

“administrative and regulatory fee” throughout the section; substituted “anti-fraud assessment” for “fee” in two places; and made stylistic changes.

23-100-105. Insurers’ antifraud fees — Deposit into Insurance Fraud Investigation Division Trust Fund.

The Insurance Commissioner shall deposit all antifraud assessments and any penalties assessed under this chapter, as well as any other income received for purposes set out in § 23-100-103(a), into the Insurance Fraud Investigation Division Trust Fund as special revenues.

History. Acts 1997, No. 337, § 5; 1999, No. 881, § 21.

Amendments. The 1999 amendment

substituted “antifraud assessments” for “administrative and financial regulatory fees.”

23-100-106. Rules and regulations.

The Insurance Commissioner may promulgate reasonable rules and regulations deemed necessary for the administration of this chapter.

History. Acts 1997, No. 337, § 6.

23-100-107. Insurance Fraud Investigation Division Trust Fund — Department vouchers and Auditor of State warrants.

All antifraud assessments, penalties, and revenues provided in this chapter received as special revenues for the Insurance Fraud Investigation Division Trust Fund and deposited therein shall be deemed for all purposes special revenues of the fund and of the State Insurance Department for the sole support, operation, and maintenance of the Insurance Fraud Investigation Division of the State Insurance Department, and, when paid into the State Treasury by the Insurance Commissioner, shall be maintained by the State Treasury as the Insurance Fraud Investigation Division Trust Fund, separate from all other funds, and available only for the payment of the expenses of the division pursuant to the appropriations therefor. Upon proper voucher from the commissioner, the Auditor of State shall issue his or her warrant on the Treasurer of State in payment of all salaries and other expenses incurred in the administration of this chapter.

History. Acts 1997, No. 337, § 7; 1999, No. 881, § 22.

Amendments. The 1999 amendment

substituted “antifraud assessments” for “fees” and “therefor” for “therefore” and made stylistic changes.

CHAPTER 101

CREDITOR-PLACED INSURANCE

SECTION.

- 23-101-101. Purpose.
- 23-101-102. Scope.
- 23-101-103. Definitions.
- 23-101-104. Prohibited coverages.
- 23-101-105. Term of insurance policy.
- 23-101-106. Calculation and payment of premiums.
- 23-101-107. Evidence of coverage.
- 23-101-108. Filing, approval, and withdrawal of forms and rates.

SECTION.

- 23-101-109. Refund of unearned premiums.
- 23-101-110. Claims.
- 23-101-111. Rights and obligations of the parties.
- 23-101-112. Remittance of premiums and payment of compensation.
- 23-101-113. Disclosures to debtor.
- 23-101-114. Rules and regulations.

Effective Dates. Acts 2001, No. 580, § 29, provided: "The effective date of the provisions of this act is July 1, 2002. However, the commissioner may extend the effective date to a subsequent date, but no later than October 31, 2002, if he finds that implementation of the act is not possible by July 1, 2002."

Acts 2001, No. 580, § 30: Mar. 6, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly of the State of Arkansas that the present laws on licensure of Arkansas surplus line brokers do not meet compliance with the Gramm-Leach-Bliley Act of 1999, Public Law 106-102, 113 Stat. 1338, and that other insurance laws are inadequate to protect the public; that in pertinent part, the changes to the insurance code are needed to assure compliance with the provisions of that new federal law which do not allow discrimination in licensure of resident and nonresident applicants for insurance by state insurance regulators; that Arkansas must achieve compliance with this new Federal law

which was enacted in 1999 and which has a November 12, 2002 compliance deadline in regard to the Arkansas Insurance Department's regulation of agents, brokers, surplus line brokers, and other applicants for individual and corporate licenses; and that implementation after the effective date of this act will require significant time on the part of the industry and the Arkansas Insurance Department to come into compliance by the November 12, 2002, deadline. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-101-101. Purpose.

The purposes of this chapter are to:

- (1) Promote the public welfare by regulating creditor-placed insurance;
- (2) Create a legal framework within which creditor-placed insurance may be written in this state; and
- (3) Minimize unfair competitive practices in the sale of creditor-placed insurance.

History. Acts 1997, No. 930, § 1; 2001, No. 580, § 25.

Amendments. The 2001 amendment added the subdivision designations; and

deleted “maintain the separation between creditors and insurers” following “in this state” in (2).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-101-102. Scope.

(a) This chapter applies to an insurer or producer transacting creditor-placed insurance as defined in this subchapter.

(b) All creditor-placed insurance written in connection with credit transactions for personal, family, or household purposes is subject to the provisions of this chapter, except:

(1) Transactions involving extensions of credit primarily for business or commercial purposes;

(2) Insurance on collateralized real property;

(3) Insurance offered by the creditor and elected by the debtor at the debtor's option;

(4) Insurance for which no specific charge is made to the debtor or the debtor's account; or

(5) Blanket insurance, whether paid for by the debtor or the creditor.

(c) The Insurance Commissioner shall have authority to bring an administrative or judicial proceeding to enforce this chapter. No provisions of this chapter are intended to establish or extinguish a private right of action for a violation of any provision of this chapter.

History. Acts 1997, No. 930, § 2.

23-101-103. Definitions.

As used in this chapter:

(1) “Actual cash value” means the cost of replacing damaged or destroyed property with comparable new property, minus depreciation and obsolescence;

(2) “Blanket insurance” means insurance that provides coverage on collateral as defined in a policy issued to a creditor, without specifically listing the collateral covered;

(3) “Collateral” means personal property that is pledged as security for the satisfaction of a debt;

(4) “Commissioner” means the Insurance Commissioner, his or her deputies, and employees;

(5) “Credit agreement” means the written document that sets forth the terms of the credit transaction and includes the security agreement;

(6) “Credit transaction” means a transaction by the terms of which the repayment of money loaned or credit commitment made, or pay-

ment of goods, services, or properties sold or leased, is to be made at a future date or dates;

(7) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of a lender, vendor, or lessor;

(8)(A) "Creditor-placed insurance" means insurance that is purchased unilaterally by the creditor, who is the named insured, subsequent to the date of the credit transaction, providing coverage against loss, expense, or damage to collateralized personal property as a result of fire, theft, collision, or other risks of loss that would either impair a creditor's interest or adversely affect the value of collateral covered by limited dual interest insurance.

(B) Creditor-placed insurance is purchased according to the terms of the credit agreement as a result of the debtor's failure to provide required physical damage insurance with the cost of the coverage being charged to the debtor.

(C) Creditor-placed insurance shall be either single interest insurance or limited dual interest insurance;

(9) "Debtor" means the borrower of money or a purchaser or lessee of goods, services, property, rights or privileges, for which payment is arranged through a credit transaction;

(10) "Insurance tracking" means monitoring evidence of insurance on collateralized credit transactions to determine whether insurance required by the credit agreement has lapsed and communicating with debtors concerning the status of insurance coverage;

(11) "Insurer" means an insurance company, association, or exchange authorized or approved to issue insurance policies regulated by this chapter in the State of Arkansas;

(12) "Lapse" means that the insurance coverage required by the credit agreement is not in force;

(13)(A) "Limited dual interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing the debtor's credit transaction.

(B) Limited dual interest insurance waives the three (3) conditions for loss payment under single interest insurance and extends coverage on the collateral, to the extent provided in § 23-101-110(a), in the possession of the debtor;

(14) "Loss ratio" means the ratio of incurred losses to earned premium;

(15) "Net debt" means the amount necessary to liquidate the remaining debt in a single lump-sum payment, excluding all unearned interest and other unearned charges;

(16) "Producer" means an insurance producer as defined in § 23-64-502; and

(17) "Single interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing a debtor's credit transaction. Three (3) conditions must be met for payment of loss under the policy:

- (A) The debtor has defaulted in payment;
- (B) The creditor has legally repossessed the collateral, unless collateral has been stolen from the debtor; and
- (C) The creditor has suffered an impairment of interest.

History. Acts 1997, No. 930, § 1; 2001, No. 580, § 26.

Amendments. The 2001 amendment rewrote (16).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-101-104. Prohibited coverages.

- (a) Creditor-placed insurance coverage shall not include:
 - (1) Coverage for the cost of repossession;
 - (2) Skip, confiscation, and conversion coverage;
 - (3) Coverage for payment of mechanics' or other liens that do not arise from a covered loss occurrence;
 - (4) Coverage that requires a debtor's insurance deductible to be less than two hundred fifty dollars (\$250); or
 - (5) Coverage that is broader than the insurance coverages that meet the minimum insurance requirements of the credit agreement.
- (b) Nothing in this section shall be deemed to prohibit the issuance of a separate policy or endorsement providing the coverages listed in subsection (a) of this section. However, no charge shall be passed along to the debtor for the coverages.

History. Acts 1997, No. 930, § 6.

23-101-105. Term of insurance policy.

- (a) Creditor-placed insurance shall become effective on the latest of the following dates:
 - (1) The date of the credit transaction;
 - (2) The date prior coverage, including prior creditor-placed insurance coverage, lapsed;
 - (3) One (1) year before the date on which the related insurance charge is made to the debtor's account; or
 - (4) A later date provided for in the agreement between the creditor and insurer.
- (b) Creditor-placed insurance shall terminate on the earliest of the following dates:
 - (1) The date other acceptable insurance becomes effective, subject to the debtor's providing acceptable evidence of the other insurance to the creditor;
 - (2) The date the collateralized personal property is repossessed, unless the property is returned to the debtor within ten (10) days of the repossession;

(3) The date the collateralized personal property is determined by the insurer to be a total loss;

(4) The date the debt is completely extinguished; or

(5) An earlier date specified in the individual policy or certificate of insurance.

(c) An insurance charge shall not be made to a debtor for a term longer than the scheduled term of the creditor-placed insurance when it becomes effective, nor may an insurance charge be made to the debtor for creditor-placed insurance before the effective date of the insurance.

(d) If a charge is made to a debtor for creditor-placed insurance coverage that exceeds a term of one (1) year, the debtor shall be notified at least annually that the insurance will be canceled and a refund or credit of unearned charges made if evidence of acceptable insurance secured by the debtor is provided.

History. Acts 1997, No. 930, § 4.

23-101-106. Calculation and payment of premiums.

(a) Premiums for creditor-placed insurance coverage may be calculated based on:

(1) An amount not exceeding the net debt even though the coverage may limit the insurer's liability to the net debt, actual cash value, or cost of repair; or

(2) Other premium calculation methods that more closely reflect the exposure of each item insured and approximate the premium calculation method of the coverage required by the credit agreement.

(b)(1) An insurer shall not write creditor-placed insurance for which the premium rate differs from that determined by the schedules of the insurer on file with the Insurance Commissioner.

(2) The premium or amount charged to the debtor for creditor-placed insurance shall not exceed the premiums charged by the insurer, computed at the time the charge to the debtor is determined.

(c) A method of billing insurance charges to the debtor on closed-end credit transactions that creates a balloon payment at the end of the credit transaction or extends the credit transaction's maturity date is prohibited unless specifically disclosed at the time of the origination of the credit agreement and specifically agreed to by the debtor.

History. Acts 1997, No. 930, § 5.

23-101-107. Evidence of coverage.

(a) Creditor-placed insurance shall be set forth in an individual policy or certificate of insurance.

(b) A copy of the individual policy, certificate of insurance coverage, or other evidence of insurance coverage shall be mailed, first class mail, or delivered in person to the last known address of the debtor.

History. Acts 1997, No. 930, § 7.

23-101-108. Filing, approval, and withdrawal of forms and rates.

(a) All policy forms and certificates of insurance to be delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the Insurance Commissioner.

(b) The commissioner shall within thirty (30) days after the filing of the policy forms and certificates of insurance disapprove a form that does not conform to this chapter or to other applicable provisions of the insurance statutes and regulations and shall within thirty (30) days of filing disapprove a schedule of premium rates pertaining to the form if it does not conform to the standard set forth in subsection (e) of this section.

(c)(1) If the commissioner disapproves a form or schedule of premium rates in accordance with subsection (b) of this section, the commissioner shall promptly notify the insurer in writing of the disapproval, and it shall be unlawful for the insurer to issue or use the form or schedule.

(2)(A) An insurer aggrieved by any order or decision of the commissioner made without a hearing, within thirty (30) days after notice to the insurer or organization, may make written request to the commissioner for a hearing thereon.

(B) The commissioner shall hear the party or parties within twenty (20) days after receipt of the request and shall give not less than ten (10) days' written notice of the time and place of the hearing.

(C) The hearing shall be concluded within fifteen (15) days from its commencement, except that the commissioner, for good cause shown and with notice to the interested parties, may grant additional time, not to exceed thirty (30) days. Within fifteen (15) days after the hearing, the commissioner shall affirm, reverse, or modify his or her previous action, specifying his or her reasons therefor.

(D) Pending the hearing and decision thereon, the commissioner may suspend or postpone the effective date of his or her previous action.

(d) Unless the commissioner disapproves the form or schedule of premium rates in accordance with subsections (b) and (c) of this section or gives written approval of the form or schedule within thirty (30) days after the filing, the form or schedule shall be deemed approved on the thirty-first day after the filing.

(e)(1) The schedules of premium rates shall not be excessive, inadequate, or unfairly discriminatory.

(2) In determining whether a schedule of premium rates is excessive, inadequate, or unfairly discriminatory, the commissioner shall take into account past and prospective loss experience, general and administrative expenses, loss settlement and adjustment expenses, and other acquisition costs including insurance tracking costs, reserves, taxes, licenses, fees and assessments, reasonable insurer profit, and other relevant data.

(3) Rates are not unfairly discriminatory because different premiums result for different policyholders, including group policyholders,

with similar loss exposures but different expense factors or similar expense factors but different loss exposures, nor are rates unfairly discriminatory if they are averaged broadly among all persons insured in this state or all persons insured under a group insurance policy.

(f)(1) The commissioner may withdraw approval of an approved form or schedule of premium rates when the commissioner would be required to disapprove the form or schedule of premium rates if it were filed at the time of the withdrawal. The withdrawal shall be in writing and shall specify the reasons for withdrawal and the effective date of the withdrawal.

(2) Within thirty (30) days after receiving the written notification of the withdrawal, an insurer adversely affected by a withdrawal may request a hearing in the manner provided in subsection (c) of this section to determine whether the withdrawal should be annulled, modified, or confirmed.

(3) Unless the commissioner grants an extension in writing in the withdrawal or subsequently grants an extension, the withdrawal shall become effective, in the absence of a request for hearing, prospectively and not retroactively, on the ninety-first day following delivery of the notice of withdrawal and, if the request for hearing is filed, on the ninety-first day following delivery of written notice of the commissioner's determination.

(g) Forms and rates filed and approved in accordance with this section shall be deemed to be in compliance in all respects with the laws of this state.

History. Acts 1997, No. 930, § 8.

23-101-109. Refund of unearned premiums.

(a) Within sixty (60) calendar days after the termination of creditor-placed insurance coverage and in accordance with the formulas approved by the Insurance Commissioner, an insurer shall refund any unearned premium or other identifiable charges.

(b)(1) Within sixty (60) calendar days after the termination date of creditor-placed insurance coverage, the insurer shall provide to the debtor a statement of refund disclosing the effective date, the termination date, the amount of premium being refunded, and the amount of premium charged for the coverage provided.

(2) No statement shall be required in the event that the policy terminates pursuant to § 23-101-105(b)(4).

(c) The entire amount of premiums, minimum premiums, and fees or charges of any kind shall be refunded if no coverage was provided.

History. Acts 1997, No. 930, § 9.

23-101-110. Claims.

(a) In the event of a loss under the creditor-placed insurance policy, the insurer shall pay, at a minimum, the least of the following, the value of which shall be determined as of the date of loss:

(1) The cost to repair the collateral less any applicable deductible;

(2) The actual cash value of the collateral, less any applicable deductible;

(3) The net debt, less any applicable deductible. The method of calculation of net debt payable pursuant to this subdivision (a)(3) shall be identical to the method of calculation of net debt for payment of premiums pursuant to § 23-101-106(a); or

(4) If single interest insurance is provided, the amount by which the creditor's interest is impaired.

(b) The net debt or actual cash value amounts in subsection (a) of this section may be reduced by the value of salvage if the insurer does not take possession of the insured property.

(c) In the event of a loss, no subrogation shall run against the debtor from the insurer.

(d) Whenever a claim is made on a creditor-placed insurance policy, the insurer shall furnish to the claimant a written statement of the loss explaining the settlement amount and the method of settlement.

(e)(1) A creditor or insurer may not abandon salvage to a towing or storage facility in lieu of payment of storage fees without the consent of the facility and the claimant.

(2)(A) After the filing of a claim as provided in the policy or certificate of insurance, the insurer shall be responsible for the payment of towing and storage charges for a covered loss occurrence from the time storage is reported to the insurer or lender to the time the claim is paid.

(B) The insurer shall give written notice to the claimant when the claim is paid that the claimant may incur storage charges after the date the claim is paid.

History. Acts 1997, No. 930, § 10.

23-101-111. Rights and obligations of the parties.

(a) In order for the creditor to place insurance on the collateral pledged by the debtor and pass the cost of the insurance on to the debtor:

(1) The creditor must have a security interest in the personal property;

(2) The credit agreement must require the debtor to maintain insurance on the collateral to protect the creditor's interest;

(3) The credit agreement must authorize the creditor to place the insurance if the debtor fails to provide evidence of the insurance; and

(4) These requirements must be clearly disclosed to the debtor at the inception of the credit transaction.

(b)(1) The debtor shall always have the right to provide required insurance through existing policies of insurance owned or controlled by the debtor or of procuring and furnishing the required coverage through an insurer authorized to transact insurance within this state.

(2) However, a creditor may establish maximum acceptable deductibles, insurer solidity standards, and other reasonable conditions with respect to the required insurance.

History. Acts 1997, No. 930, § 11.

23-101-112. Remittance of premiums and payment of compensation.

(a)(1) The entire amount of the premium due from a creditor shall be remitted to the insurer or its producer in accordance with the insurer's requirements.

(2) No commissions may be paid to, or retained by, a person or entity not licensed and appointed in accordance with the Producer Licensing Model Act, § 23-64-501 et seq., nor to a depository institution or an affiliate of a depository institution unless appropriately licensed under § 23-64-101 et seq.

(3) For purposes of this section, "person" includes any individual, corporation, association, partnership, or other legal entity.

(b) The retention by the creditor of unearned premiums upon cancellation of the insurance without crediting to the debtor's account the amount of unearned insurance charges is prohibited.

(c) Unless allowed by § 23-64-513, rebates to the creditor of a portion of the premium charged to the debtor are prohibited as are other inducements provided to the creditor by an insurer or producer. The listing of the following activities as prohibited rebates or inducements is not intended to be restrictive, and the Insurance Commissioner may identify an activity as prohibited by rule, regulation, or order:

(1) Allowing insurers or producers to purchase certificates of deposit from the creditor or to maintain accounts with the creditor at less than the market interest rates and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration;

(2) Paying a commission to a person, including a creditor, who is not appropriately licensed as a producer in this state; and

(3) Purchasing or offering to purchase certificates of deposit from, or maintaining or offering to maintain deposit accounts or investment accounts with, a creditor as part of a creditor-placed insurance solicitation.

(d) Prohibited rebates or inducements do not include the providing of insurance tracking and other services incidental to the creditor-placed insurance program.

(e) Nothing contained in this section shall prohibit or restrict an insurer or producer from maintaining a demand, premium deposit, or other account or accounts with a creditor for which the insurer or producer provides insurance if the accounts pay the market interest

rate and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration.

History. Acts 1997, No. 930, § 12; 2001, No. 580, § 27; 2001, No. 1728, § 4.

Amendments. The 2001 amendment by No. 580 substituted “§ 23-64-501 et seq.” for “§ 23-64-201 et seq. nor to a lender or any subsidiary or affiliate of a lender” in (a)(2); and substituted “Unless

allowed by § 23-64-513, rebates” for “Rebates” in the introductory language of (c).

The 2001 amendment by No. 1728, in (a)(2) substituted “depository institution ... § 23-64-101 et seq.” for “lender or any subsidiary or affiliate of a lender”; and added (a)(3).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-101-113. Disclosures to debtor.

(a) A creditor shall not impose charges, including premium costs and related interest and finance charges, on a debtor for creditor-placed insurance coverage unless adequate disclosure of the requirement to maintain insurance has been made to the debtor. Adequate disclosure is accomplished if the following occurs:

(1) The credit agreement sets forth the requirement that the debtor must maintain insurance on the collateral as provided for in § 23-101-111;

(2) The creditor makes reasonable efforts to notify the debtor of the requirement to maintain insurance and allows a reasonable time for compliance with this requirement;

(3) A final notice as required by this chapter is sent to the debtor; and

(4) If creditor-placed insurance coverage is issued, a copy of the policy or certificate is sent to the debtor as provided for in § 23-101-107.

(b)(1) After adequate disclosure of the request to maintain insurance has been made to the debtor as required by this section, a creditor may proceed to impose charges for creditor-placed insurance if the debtor fails to provide evidence of insurance.

(2) A creditor may impose charges no earlier than ten (10) calendar days after sending the final notice.

(c) Reasonable efforts to notify the debtor are accomplished if:

(1) The creditor mails a notice by first class mail to the debtor's last known address as contained in the creditor's records, stating that the creditor intends to charge the debtor for creditor-placed insurance coverage on the collateral if the debtor fails to provide evidence of the property insurance to the creditor;

(2) The creditor allows the debtor at least twenty (20) calendar days to respond to the notice and provide evidence of acceptable insurance coverage before sending a final notice; and

(3)(A) The creditor sends a final notice in compliance with this section by first class mail to the debtor's last known address as

contained in the creditor's records at least ten (10) calendar days before the cost of insurance is charged to the debtor by the creditor.

(B) Proof of the mailing of the final notice shall be retained for at least three (3) years following the expiration or termination of the coverage or as otherwise required by law.

(d) The initial notice shall be in a form determined by the creditor to remind the debtor of the requirement to maintain insurance on the collateral. The final notice shall be as complete as the following notice, printed in not less than 12-point type, and modified when necessary to fit the nature of the credit transaction:

"FINAL NOTICE

Your credit agreement with us requires you to have property insurance on the collateral until you pay off your loan. You have not given us proof you have insurance on the property. You can ask your insurance company or agent to give us proof of insurance or you can send us proof you have property insurance within ten (10) calendar days after the date this letter was postmarked. If you do not, we may buy the insurance and charge the cost to you.

You must pay for the property insurance we buy. It will probably cost more than insurance you can buy on your own. The cost of the insurance we buy may be added to your loan balance and we may charge you interest on it. If we do, you will pay interest at the same rate you pay on your loan or the highest rate permitted by law, whichever is lower.

The insurance we buy will pay claims to us (the creditor) for physical damage to your property, at a minimum, the least of the following, determined as of the date of loss: (a) the cost to repair the collateral less any applicable deductible; (b) the actual cash value of the collateral, less any applicable deductible; (c) the net debt, less any applicable deductible. It will not pay any claims made against you [and it may not pay you for any claims you make (delete if limited dual interest coverage)]. The insurance we buy will not give you any liability insurance coverage and will not meet the requirements of a state's financial responsibility law.

The property coverage we buy will start on the date shown in the policy or certificate, which may go back to the date of the loan or the date your prior coverage stopped. We will cancel the insurance we bought for you and give you a refund or credit of unearned charges if you give us proof you have bought property insurance somewhere else or if you have paid off the loan."

(e)(1) All creditor-placed insurance shall be set forth in an individual policy or certificate of insurance.

(2) Not earlier than the sending of the final notice nor fifteen (15) days after a charge is made to the debtor for creditor-placed insurance

coverage, the creditor shall cause a copy of the individual policy, certificate, or other evidence of insurance coverage evidencing the creditor-placed insurance coverage to be sent, first class mail, to the debtor's last known address.

(f) A creditor's compliance with or failure to comply with this chapter shall not be construed to require the creditor to purchase insurance coverage on the collateral, and the creditor shall not be liable to the debtor or a third party as a result of its failure to purchase the insurance.

History. Acts 1997, No. 930, § 13.

23-101-114. Rules and regulations.

After notice and hearing, the Insurance Commissioner may promulgate reasonable rules and regulations to carry out and effectuate the provisions of this chapter.

History. Acts 1997, No. 930, § 14.

CHAPTER 102

ARKANSAS EARTHQUAKE AUTHORITY ACT

SECTION.

- 23-102-101. Short title.
- 23-102-102. Legislative findings and intent.
- 23-102-103. Definitions.
- 23-102-104. Establishment of Arkansas Earthquake Authority.
- 23-102-105. Board.
- 23-102-106. Immunity and limitations on liability.
- 23-102-107. Plan of operation — Suspension of operation — Dissolution.
- 23-102-108. Powers.
- 23-102-109. Market Assistance Program.
- 23-102-110. Coverages accessible through Arkansas Earthquake Authority.

SECTION.

- 23-102-111. Administration of Arkansas Earthquake Authority.
- 23-102-112. Funding.
- 23-102-113. Policy standards.
- 23-102-114. Notice and declination.
- 23-102-115. Appeal.
- 23-102-116. Rules and regulations.
- 23-102-117. Federal or multistate catastrophic funds.
- 23-102-118. Exemption from Arkansas Property and Casualty Insurance Guaranty Act.
- 23-102-119. Termination of Arkansas Earthquake Authority.

23-102-101. Short title.

This chapter shall be known and may be cited as the "Arkansas Earthquake Authority Act".

History. Acts 1999, No. 1343, § 1.

23-102-102. Legislative findings and intent.

(a) The threat of or the actual occurrence of a major earthquake poses serious consequences for the State of Arkansas and its citizens. Of

particular concern is the magnitude of damage to residential homeowner and farmowner dwellings and whether or not these structures are adequately insured.

(b) The market for residential earthquake insurance within the State of Arkansas is currently characterized by the following:

(1) Potential for unavailability of earthquake insurance coverage or inadequate coverage;

(2) Potential lack of capacity and desire of insurers to write residential earthquake coverage due to pressure from rating agencies;

(3) Low percentage of Arkansans with earthquake insurance;

(4) Lack of awareness on the part of residential homeowners and farmowners regarding the consequences of a major earthquake; and

(5) Lack of awareness on the part of residential homeowners and farmowners that earthquake is not a covered peril under a basic homeowner or farmowner policy unless affirmatively added by endorsement.

(c) The General Assembly declares there is a compelling state interest in maintaining a viable and orderly private sector market for residential earthquake insurance in this state. To the extent that private sector insurers are unable to maintain a viable and orderly market for residential earthquake insurance in this state, state actions to maintain such a viable and orderly market are appropriate.

History. Acts 1999, No. 1343, § 2.

23-102-103. Definitions.

As used in this chapter:

(1) "Authority" means the Arkansas Earthquake Authority;

(2) "Board" means the Board of the Arkansas Earthquake Authority;

(3) "Commissioner" means the Insurance Commissioner;

(4) "Event" means an earthquake and all subsequent earthquakes occurring within the following seventy-two-hour period;

(5) "Insurer" means all property insurers as defined in § 23-62-104 and includes farmers' mutual aid associations and all casualty insurers as defined in § 23-62-105;

(6) "Program" means the Market Assistance Program; and

(7) "Net direct written premium" is the gross amount of premiums received from policies of insurance issued in this state less return premiums and dividends paid or credited to policyholders. "Net direct written premium" does not include premiums for indemnity reinsurance accepted from other licensed insurers, and there shall be no deductions for premiums for indemnity reinsurance ceded to other insurers.

History. Acts 1999, No. 1343, § 3.

23-102-104. Establishment of Arkansas Earthquake Authority.

(a) There is created a nonprofit legal entity to be known as the "Arkansas Earthquake Authority". The authority shall operate subject to the supervision and control of the Board of the Arkansas Earthquake Authority. The authority is created as a political subdivision, instrumentality, and body politic of the State of Arkansas and, as such, is not a state agency.

(b) The authority shall be exempt from all state, county, and local taxes, including insurance premium taxes, the Arkansas Procurement Law, § 19-11-201 et seq., and the Arkansas Administrative Procedure Act, § 25-15-201 et seq., except to the extent defined in this chapter.

History. Acts 1999, No. 1343, § 4.

23-102-105. Board.

(a) The Arkansas Earthquake Authority shall operate subject to the supervision and control of the Board of the Arkansas Earthquake Authority. There shall be a board of seven (7) members to be appointed by the Insurance Commissioner, which shall meet at least annually to review and prescribe operating rules. The commissioner shall apportion the number of positions into three (3) classes which shall consist of the following members:

(1) Three (3) members shall be representatives of foreign insurance companies;

(2) Two (2) members shall be representatives of domestic insurance companies;

(3) One (1) member shall be a licensed insurance agent; and

(4) One (1) member shall be a consumer.

(b) The commissioner shall appoint members by class of one-year terms, two-year terms, and three-year terms. Thereafter, at each annual meeting, members appointed to succeed those whose terms expire shall be appointed to three-year terms.

(c) The board shall elect one (1) of its members as chair.

(d) Any vacancy in the board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

(e) Members of the board may be reimbursed from moneys of the authority for actual and necessary expenses incurred by them to attend board meetings but shall not otherwise be compensated for their services.

History. Acts 1999, No. 1343, § 5.

23-102-106. Immunity and limitations on liability.

There is no liability on the part of and no cause of action of any nature may arise against any participating insurer, the Arkansas Earthquake Authority's agents or employees, the Board of the Arkansas Earthquake

Authority, or the Insurance Commissioner or his or her representatives for any act or omission in the performance of their powers and duties under this chapter.

History. Acts 1999, No. 1343, § 6.

23-102-107. Plan of operation — Suspension of operation — Dissolution.

(a)(1) The Board of the Arkansas Earthquake Authority shall adopt a plan of operation pursuant to this chapter and shall submit to the Insurance Commissioner for approval the plan of operation, including the Arkansas Earthquake Authority's bylaws and operating rules and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the authority. The plan of operation shall become effective upon approval in writing by the commissioner.

(2) If the board fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board or at any time thereafter fails to submit suitable amendments to the plan of operation, the commissioner shall adopt and promulgate such rules as are necessary or advisable to effectuate the provisions of this section. The rules shall continue in force until modified by the commissioner or superseded by a plan of operation submitted by the board and approved by the commissioner.

(b) The plan of operation shall:

(1) Establish procedures for operation of the authority;

(2) Create a fund under the management of the board to pay administrative costs, claims, and other expenses of the authority;

(3) Develop and implement a Market Assistance Program to assist insureds in procuring residential earthquake coverage in the voluntary market;

(4) Develop and implement a program to publicize the existence of the Market Assistance Program and the authority, the eligibility requirements, and procedures for enrollment, and to maintain public awareness of the Market Assistance Program and the authority;

(5) Establish procedures for the handling, accounting, and auditing of assets, moneys, and claims of the authority and the Executive Director of the Arkansas Earthquake Authority or the Plan Administrator of the Arkansas Earthquake Authority;

(6) Establish procedures for selecting either an executive director or a plan administrator in accordance with § 23-102-111;

(7) Establish procedures for issuance of policies;

(8) Establish procedures under which applicants and participants may have written grievances reviewed by a grievance committee appointed by the board. The grievances shall be reported to the board after completion of the review. The board shall retain all written complaints regarding the plan for at least three (3) years;

(9) Establish procedures to conduct necessary analyses at reasonable intervals to appropriately evaluate the Arkansas earthquake insurance market;

(10) Establish procedures and guidelines to prevent a company from transferring and causing to be transferred substantially all of its earthquake exposure to the authority unless the commissioner finds after notice and hearing that it is in the best interests of Arkansas citizens to allow such a practice; and

(11) Provide for other matters as may be necessary and proper for the execution of the board's powers, duties, and obligations under this chapter.

(c) If the board finds after investigation conducted pursuant to subdivision (b)(9) of this section that there is sufficient availability and competition in the marketplace, the board shall request that the commissioner hold a public hearing to determine if it is in the best interest of Arkansas citizens to suspend operation of or dissolve the Market Assistance Program or the authority. If after the hearing the commissioner determines that there is sufficient availability and competition in the voluntary earthquake market and it is in the best interest of Arkansas citizens, the commissioner may:

(1) Suspend operations of the Market Assistance Program or the authority;

(2) Suspend policy issuance by the authority or any other operational component of the Market Assistance Program or the authority; or

(3) Dissolve the Market Assistance Program or the authority.

History. Acts 1999, No. 1343, § 7.

23-102-108. Powers.

(a) The Board of the Arkansas Earthquake Authority shall have the general powers and authority granted under the laws of the State of Arkansas and in addition thereto, the specific authority to:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter;

(2) Assess insurers pursuant to § 23-102-112 regarding funding of the Arkansas Earthquake Authority;

(3) Set an appropriate policyholder surcharge for insurers entering the residential homeowner, farmowner, fire and allied lines, and earthquake markets after an event. This surcharge shall be remitted to the Arkansas Earthquake Authority based on these insurers' not having paid the post-event assessments contained in § 23-102-112. The board shall determine the period of time during which this surcharge shall be applicable;

(4) Sue or be sued, including taking any legal actions necessary or proper;

(5) Take such legal action as necessary, including, but not limited to:

(A) Avoiding the payment of improper claims against the Arkansas Earthquake Authority or the coverage provided by or through the Arkansas Earthquake Authority;

(B) Recovering any amounts erroneously or improperly paid by the Arkansas Earthquake Authority;

(C) Recovering any amounts paid by the Arkansas Earthquake Authority as a result of mistake of fact or law;

(D) Recovering other amounts due the Arkansas Earthquake Authority; or

(E) Coordinating legal action with the Insurance Commissioner to enforce the provisions of this chapter;

(6) Establish and modify from time to time as appropriate the rates, rate schedules, expense allowances, agent fees, deductibles, and any other actuarial function appropriate to the operation of the Arkansas Earthquake Authority;

(7) Issue policies of residential earthquake insurance or reinsurance in accordance with the requirements of this chapter. All policy forms shall be subject to the approval of the commissioner;

(8) Authorize the Executive Director of the Arkansas Earthquake Authority or the Plan Administrator of the Arkansas Earthquake Authority to prepare and distribute instruction and application forms to agents and to the general public;

(9)(A) Borrow money and issue or contract with another state authority, including the Arkansas Development Finance Authority, to be issued on its behalf negotiable evidences of debt, including bonds payable from and secured by a pledge of the Arkansas Earthquake Authority of all or any part of the revenues of the Arkansas Earthquake Authority to finance the activities authorized by this chapter and sell those bonds at public or private sale in the form and on those terms and conditions as approved by the board.

(B) Proceeds of bonds and the revenues pledged to secure or pay bonds shall be cash funds and shall not be deposited in the State Treasury.

(C)(i) Bonds shall be special obligations of the Arkansas Earthquake Authority, secured solely by and payable from the revenues of the Arkansas Earthquake Authority. The funds, credit, property, or taxing power of the state or political subdivisions of the state shall not be pledged for the payment of such bonds.

(ii) In the discretion of the board and subject to approval by the commissioner, the Arkansas Development Finance Authority shall be authorized and empowered to issue negotiable evidences of debt on behalf of the Arkansas Earthquake Authority for the purposes of providing financing as set forth in subdivision (a)(9) of this section and for all other purposes consistent with and in furtherance of this chapter.

(D) The term of the bonds may not exceed thirty (30) years. In addition, bonds may be issued for the purpose of refunding any bonds issued under this chapter.

(E) Bonds issued by the Arkansas Earthquake Authority are:

(i) Legal investments for all trust funds, the funds of all insurance companies, banks, trust companies, executors, administrators, trustees, and other fiduciaries; and

(ii) Securities that may legally be deposited with and received by any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

(F) The state pledges to and agrees with the holders of bonds that the state will not limit, alter, or restrict the rights vested in the Arkansas Earthquake Authority to fulfill each pledge of revenues and any other terms of any agreement made with or for the benefit of the holders of bonds or in any way impair the rights or remedies of the holders of the bonds.

(G) Bonds issued by the Arkansas Earthquake Authority and the interest thereon shall at all times be exempt from all state, county, and municipal taxes. This exemption shall include income, inheritance, and estate taxes;

(10) Pledge, assign, and grant a security interest in any of the assessments authorized by this chapter or other assets of the Arkansas Earthquake Authority in order to secure any notes, bonds, or other evidences of indebtedness of the Arkansas Earthquake Authority;

(11) Enter into one (1) or more credit facilities, including, but not limited to, lines of credit, permitting the Arkansas Earthquake Authority to draw amounts as approved by the board, with payment, interest rate, indemnity, compensation, security, default, remedy, and other terms and conditions as approved by the board. All drawings under these credit facilities shall be available to finance the activities authorized by this chapter; and

(12) Purchase reinsurance, hedge, securitize, or otherwise mitigate the risks insured or reinsured by the Arkansas Earthquake Authority by entering into such commitments and undertakings and exercising such powers as may be appropriate to accomplish the financings contemplated in this section and thereby carry out the purposes of this chapter.

(b) In addition to the other powers granted by the Arkansas Insurance Code, the commissioner, after notice and hearing in accordance with the provisions of the Arkansas Insurance Code, may impose a monetary penalty upon any insurer or suspend or revoke the certificate of authority to transact insurance in the State of Arkansas of any insurer who fails to pay an assessment or otherwise file any report or furnish information required to be filed with the board pursuant to the board's direction that the board believes to be necessary in order for the board to perform its duties under this chapter.

History. Acts 1999, No. 1343, § 8.

A.C.R.C. Notes. The Arkansas Insur-

ance Code, referred to in this section, was originally enacted by Acts 1959, No. 148.

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-102-109. Market Assistance Program.

(a) The Board of the Arkansas Earthquake Authority shall develop and implement a Market Assistance Program to assist insureds in procuring residential earthquake coverage in the voluntary market. This shall be accomplished by providing those seeking residential earthquake coverage with a list of insurers participating in the program.

(b) Insurers may participate in the program only after approval by the board. The board shall establish criteria which must be met by each program applicant for approval, including, but not limited to, the following minimum requirements:

(1) All applicants for earthquake coverage which have underlying homeowner, farmowner, or dwelling fire insurance coverage, or meet other criteria as determined by the board and approved by the Insurance Commissioner, shall be accepted;

(2) Residential earthquake coverage must be offered as monoline coverage;

(3) The insurer-applicant is in sound financial condition; and

(4) The insurer-applicant has retained or contracted with appropriate skilled personnel to service insureds.

(c) By rule and regulation, the commissioner may restructure the program criteria set forth in subsection (b) of this section or any other component of the program if the commissioner finds that the program is not substantially accomplishing its objective of assisting residential insureds in procuring earthquake coverage in the voluntary market and that the restructuring will be in the best interests of Arkansas citizens.

(d) Program insurers shall give ninety (90) days' notice in writing to the board and the commissioner of their withdrawal from the program.

(e) Notwithstanding any provision in § 23-64-514 regarding agent appointments, all licensed property and casualty agents shall be authorized to access and place coverage through a program insurer.

History. Acts 1999, No. 1343, § 9; substituted “§ 23-64-514” for “§ 23-64-201, No. 580, § 28. 201 et seq.” in (e); and made stylistic changes.

Amendments. The 2001 amendment

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Insurance
Law, 24 UALR L.J. 577.

23-102-110. Coverages accessible through Arkansas Earthquake Authority.

(a) As long as the Market Assistance Program has at least one (1) approved insurer, no residential earthquake coverage shall be issued by the Arkansas Earthquake Authority, except as provided in subsection (b) of this section.

(b) If there are no approved insurers in the program or if after notice and hearing, the Board of the Arkansas Earthquake Authority or the Insurance Commissioner finds that the program rates substantially exceed rates that could be offered by the authority, and the board or commissioner finds after a hearing that it is in the best interests of Arkansas citizens to issue coverage directly through the authority, and with the concurrence of the House Committee on Insurance and Commerce and the Senate Committee on Insurance and Commerce, if the General Assembly is in session, or the concurrence of the House Interim Committee on Insurance and Commerce and the Senate Interim Committee on Insurance and Commerce, if the General Assembly is not in session, the board shall proceed to offer coverage through the authority to potential insureds.

History. Acts 1999, No. 1343, § 10.

23-102-111. Administration of Arkansas Earthquake Authority.

(a) The Board of the Arkansas Earthquake Authority may either appoint an Executive Director of the Arkansas Earthquake Authority or may select a Plan Administrator of the Arkansas Earthquake Authority. If an executive director is chosen, he or she shall hire all staff necessary to enable him or her to discharge the duties imposed under this chapter and as may be authorized by law. If a plan administrator is chosen, the board may utilize a competitive bidding process to evaluate applicants and bids submitted under this section, based upon criteria established by the board which shall include, but not be limited to, the following:

- (1) An estimate of total charges for administering the plan;
- (2) The financial condition and stability of the plan administrator;

and

- (3) The technical expertise and qualifications of personnel.

(b) The plan administrator shall serve for a period of three (3) years subject to removal for cause and subject to the terms, conditions, and limitations of the contract between the board and the plan administrator. The board may advertise for and accept bids to serve as the plan administrator for the succeeding three-year periods.

(c) The executive director or plan administrator shall perform functions related to the plan as may be assigned to it including:

- (1) Determination of eligibility for coverage under the Market Assistance Program or the Arkansas Earthquake Authority;

- (2) Payment and processing of claims;

(3) Establishment of a premium billing procedure for collection of premiums. Billings shall be made on a periodic basis as determined by the board;

(4) Other necessary functions to assure timely payment of benefits to covered persons under the plan, including:

(A) Making available information relating to the proper manner of submitting a claim for benefits under the plan and distributing forms upon which submissions shall be made; and

(B) Evaluating the eligibility of each claim for payment under the plan; and

(5) Conduct necessary analyses at reasonable intervals to appropriately evaluate the Arkansas earthquake insurance market and take action necessary to accomplish the purposes of this chapter.

(d) The executive director or plan administrator shall submit regular reports to the board regarding the operation of the plan. Frequency, content, and form of the report shall be determined by the board.

(e) The executive director or plan administrator shall pay claim expenses from the premium payments or other income received from or on behalf of plan participants and allocated by the board for claim expenses. If the total amount available at any time to the authority is insufficient to make all necessary claims payments, the moneys available shall be prorated, and the unpaid portion shall be paid as soon thereafter as moneys become available.

(f) The executive director or plan administrator shall be governed by the requirements of this chapter.

(g) The plan administrator shall be compensated as provided in the contract between the board and the plan administrator.

History. Acts 1999, No. 1343, § 11.

23-102-112. Funding.

(a) **RATES.**

(1) The Arkansas Earthquake Authority shall establish rates for plan coverage. These rates and rating schedules may be adjusted for appropriate factors such as geographical variation in claim costs, retrofitting, and other mitigation efforts and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices.

(2) The rates charged by the authority shall not compete with voluntary market rates so that the authority functions as a residual market mechanism to provide insurance when insurance cannot be procured in the voluntary market. Rates and schedules shall be submitted to the Insurance Commissioner for approval prior to use.

(b) **INITIAL ASSESSMENT.** Initial operating capital shall be contributed based on the following:

(1) All authorized insurers reporting one million dollars (\$1,000,000) or more in premium on their most recent annual statement shall pay a maximum initial assessment of up to one thousand dollars (\$1,000) plus

twenty-five thousandths of one percent (.025%) of their net direct written premium in the State of Arkansas as reported in their most recent annual statement. This assessment may be collected in incremental amounts or as one (1) single assessment; and

(2) All authorized insurers reporting less than one million dollars (\$1,000,000) in premium on their most recent annual statement shall pay a maximum initial assessment of up to five hundred dollars (\$500), plus twenty-five thousandths of one percent (.025%) of their net direct written premium in the State of Arkansas as reported in their most recent annual statement. This assessment may be collected in incremental amounts or as one (1) single assessment.

(c) ADMINISTRATIVE ASSESSMENTS.

(1)(A) Insurers shall contribute additional assessments as may be reasonable and necessary to meet the authority's annual projected administrative expenses.

(B) For the purposes of this section, administrative expenses shall include all reasonable and necessary operating expenses incurred or to be incurred by the authority and may be up to, but not exceeding, an aggregate total of one million dollars (\$1,000,000) for all authorized insurers identified in subdivision (c)(2) of this section.

(2)(A) These assessments shall be made as the actual need for additional administrative funds arises to ensure that the authority incurs no deficit spending.

(B) Assessments shall be apportioned by the Board of the Arkansas Earthquake Authority among authorized insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, in proportion to the ratio that the total net direct written premium collected in the State of Arkansas by the insurer on its homeowner, farmowner, fire and allied lines during the preceding calendar year bears to the total net direct written premium collected by all insurers on their homeowner, farmowner, fire and allied lines in the State of Arkansas for the preceding calendar year.

(C) Each insurer's assessment shall be determined by the board based on annual statements and other reports deemed necessary by the board and filed by the insurer with the board or the commissioner.

(3)(A) An insurer may petition the commissioner for an abatement or deferment of all or part of an assessment imposed by the authority.

(B) The commissioner may abate or defer, in whole or in part, such an assessment if, in the opinion of the commissioner, payment of the assessment would cause the insurer to be deemed in hazardous financial condition, as defined in § 23-68-102.

(C)(i) In the event an assessment against an insurer is abated or deferred in whole or in part, the amount by which such an assessment is abated or deferred shall be assessed against the other insurers in a manner consistent with the basis for assessments set forth in subsection (a) of this section.

(ii) The insurer receiving such an abatement or deferment shall remain liable to the plan for the deficiency for four (4) years.

(4) Insurers determined to be insolvent insurers by a court of competent jurisdiction shall be exempt from assessment from and after the date of that determination and until the commissioner determines that the insurer is no longer an insolvent insurer.

(5)(A)(i) All assessments shall be due and payable upon receipt and shall be delinquent if not paid within thirty (30) days of the receipt of the notice by the insurer.

(ii) Failure to timely pay the assessment will automatically subject the insurer to a ten percent (10%) penalty, which will be due and payable within the next thirty-day period.

(B) The board and the commissioner shall have the authority to enforce the collection of the assessment and penalty in accordance with the provisions of this chapter and the Arkansas Insurance Code.

(C) The board may waive the penalty authorized by this subsection if it determines that compelling circumstances exist which justify such a waiver.

(d) POST-EVENT ASSESSMENTS.

(1) If loss from an event occurs, the authority, in addition to any assessments in subsections (a) and (b) of this section, shall assess all authorized insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, as may be necessary to produce the additional funds needed to make payment of all covered claims and expenses of the authority.

(2) Assessments during a calendar year may be made up to but not in excess of five percent (5%) of each insurer's net direct homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, written premium in the State of Arkansas for the preceding calendar year.

(3) Insurers shall recover the post-event assessment through a surcharge on homeowner, farmowner, fire and allied lines policyholder, excluding crop hail policyholders, equal to the percentage identified by the board for the insurers' post-event assessment. This surcharge shall be exempt from insurance premium taxes.

(4) Pursuant to § 23-102-108, the board shall establish surcharge policies and guidelines for insurers entering the residential homeowner, farmowner, fire and allied lines and earthquake markets, excluding commercial policies and crop hail, after an event to ensure a fair and competitive market.

(5) If the maximum assessment in any calendar year does not provide an amount sufficient for payment of covered claims, the moneys available shall be prorated with the unpaid portion being paid as soon thereafter as moneys become available, with assessments being made in the next and successive calendar years. However, in no event shall the total assessment exceed two hundred fifty million dollars (\$250,000,000) in the aggregate, regardless of the frequency or severity of earthquake losses at any and all times subsequent to the creation of the authority.

(6) The authority may exempt or defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer to be deemed in hazardous financial condition, as defined in § 23-68-102.

(7) Insurers determined to be insolvent insurers by a court of competent jurisdiction shall be exempt from assessment from and after the date of that determination and until the commissioner determines that the insurer is no longer an insolvent insurer.

(8) It shall be the duty of each insurer to pay the amount of its assessment to the authority within thirty (30) days after it gives notice of the assessment.

(e) **FAILURE TO PAY ASSESSMENTS.**

(1) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact business in this state of any insurer who fails to pay an assessment when due.

(2) As an alternative, the commissioner may levy a fine on any insurer which fails to pay an assessment when due. The fine shall not exceed one thousand dollars (\$1,000) per day and shall be payable to the authority for use in its operations.

(3) In addition, assessments may be collected by the authority through suits brought for that purpose. Venue for suits shall lie in Pulaski County, Arkansas, and the authority shall not be required to give an appeal bond in any cause arising hereunder.

(4) Any insurer whose certificate of authority to do business in this state is cancelled or surrendered shall be liable for any unpaid assessments made prior to the date of the cancellation or surrender.

History. Acts 1999, No. 1343, § 12.

originally enacted by Acts 1959, No. 148.

A.C.R.C. Notes. The Arkansas Insurance Code, referred to in this section, was

Acts 1959, No. 148, is codified as set out in the note following § 23-90-115.

23-102-113. Policy standards.

(a) The Arkansas Earthquake Authority shall offer a residential earthquake policy with dwelling coverage in amounts up to one hundred thousand dollars (\$100,000).

(b) Coverage for personal property and additional living expenses shall be provided as determined by the Board of the Arkansas Earthquake Authority in the plan of operation.

(c) The applicable deductible for this coverage shall be determined by the board in the plan of operation.

History. Acts 1999, No. 1343, § 13.

23-102-114. Notice and declination.

(a) **EXISTING POLICYHOLDERS.**

(1)(A) Insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, shall notify policyholders who do not maintain residential earthquake insurance or who maintain residential earthquake insurance at amounts less than one

hundred percent (100%) of the insured value of the dwelling, of their potential eligibility for residential earthquake insurance through the Market Assistance Program or the Arkansas Earthquake Authority.

(B) The notice shall be on a form adopted by the Board of the Arkansas Earthquake Authority and approved by the Insurance Commissioner, and insurers shall verify to the board compliance with this provision.

(C) The notice shall be provided at such intervals and frequency to be determined by the board, but notice shall be given at a minimum of three (3) different times over a four-year interval.

(2) This notice from insurers shall not be deemed to provide earthquake coverage to existing policyholders who do not maintain a policy of residential earthquake insurance, nor shall the notice be deemed to increase the amounts of earthquake insurance for those policyholders who maintain coverage at less than one hundred percent (100%) of the insured value of the dwelling.

(b) **NEW POLICYHOLDERS.** Insurers writing homeowner, farmowner, fire and allied lines, excluding commercial policies and crop hail, shall advise new applicants for these types of coverage of the availability of residential earthquake insurance through the program or the authority, if coverage is unavailable from the insurer. If an applicant chooses not to purchase residential earthquake coverage through an insurer, including program participants or the authority, the applicant shall reject this coverage in writing on the application or any addendum thereto. Insurers shall maintain the application containing the rejection as part of their files.

History. Acts 1999, No. 1343, § 14.

23-102-115. Appeal.

Any applicant for a policy, any persons insured under the Market Assistance Program or the Arkansas Earthquake Authority, and any agency or insurer affected by the program or authority may appeal to the Insurance Commissioner any ruling or decision of the Board of the Arkansas Earthquake Authority, and the commissioner may consider the appeal under a de novo standard of review.

History. Acts 1999, No. 1343, § 15.

23-102-116. Rules and regulations.

The Insurance Commissioner is authorized to promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this chapter.

History. Acts 1999, No. 1343, § 16.

23-102-117. Federal or multistate catastrophic funds.

In the event a federal or multistate catastrophic insurance or reinsurance program intended to serve purposes similar to the purposes of the Market Assistance Program or the Arkansas Earthquake Authority is created, the Board of the Arkansas Earthquake Authority shall promptly take appropriate actions to coordinate with the federal or multistate program to the extent consistent with this chapter and if such actions are in the best interest of Arkansas citizens. The board shall also make recommendations to the General Assembly for coordination with the federal or multistate program or for termination of the program or the authority, if it is in the best interest of Arkansas citizens, or take such other actions as the board finds appropriate.

History. Acts 1999, No. 1343, § 17.

23-102-118. Exemption from Arkansas Property and Casualty Insurance Guaranty Act.

Notwithstanding any other provision of law to the contrary, neither the Arkansas Earthquake Authority nor its policyholders shall be subject to the provisions of or be eligible for the benefits provided by the Arkansas Property and Casualty Insurance Guaranty Act, § 23-90-101 et seq.

History. Acts 1999, No. 1343, § 18.

23-102-119. Termination of Arkansas Earthquake Authority.

Upon termination of the Arkansas Earthquake Authority by the General Assembly or the Insurance Commissioner, its remaining funds shall be transferred to the State Insurance Department Trust Fund unless otherwise directed by the General Assembly.

History. Acts 1999, No. 1343, § 19.

CHAPTER 103**ARKANSAS TITLE INSURANCE AGENTS' LICENSING ACT****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. ARKANSAS TITLE INSURANCE AGENTS' LICENSING BOARD.
3. LICENSING REQUIREMENTS.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

- 23-103-101. Title — Purpose.
23-103-102. Definitions.

SECTION.

- 23-103-103. Penalties.

Effective Dates. Acts 2001, No. 1742,
§ 22: Sept. 18, 2001.

23-103-101. Title — Purpose.

(a) This chapter shall be known and may be cited as the “Arkansas Title Insurance Agents’ Licensing Act”.

(b) The purpose of this chapter is to provide the procedures for the licensing of title insurance agents.

History. Acts 2001, No. 1742, § 1.

23-103-102. Definitions.

As used in this chapter:

(1) “Business entity” means a corporation, firm, association, partnership, joint venture, limited liability company, limited liability partnership, or other legal business entity;

(2) “Commitment” means a contract or binder reporting the state of the title to the real property described and committing the title insurer to issue a contract of title insurance upon compliance with the requirements stated and subject to any exceptions set forth;

(3) “Home state” means the District of Columbia and any state or territory of the United States in which a title insurance agent maintains a principal place of residence or principal place of business and is licensed to act as a title insurance agent;

(4) “Inactive signing title insurance agent” means a person having a signing agent’s license that has been placed in inactive status by the Arkansas Title Insurance Agents’ Licensing Board;

(5) “Issuing title insurance agent” means a person authorized to issue commitments and contracts of title insurance and to collect premiums in the name of a title insurer;

(6) “Person” means any natural person, firm, corporation, partnership, association, limited liability company, limited liability partnership, or other business entity;

(7) “Sell” means to exchange a contract of title insurance for valuable consideration on behalf of a title insurer;

(8) “Signing title insurance agent” means a person authorized under this chapter to sign commitments and contracts of title insurance;

(9) “Title insurance” means the insurance defined in § 23-62-108;

(10) “Title insurance agent” means a person required to be licensed under the laws of the State of Arkansas to sell title insurance; and

(11) “Title insurer” means a person authorized by the State of Arkansas to underwrite and effectuate a contract of title insurance.

History. Acts 2001, No. 1742, § 3; redesignated former (4)-(5) as present (6)-(7); redesignated former (6)-(8) as present

Amendments. The 2003 amendment (9)-(11); inserted present (4), (5) and (8);

and deleted “unless the context otherwise requires” at the end of the introductory sentence.

23-103-103. Penalties.

(a)(1) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense.

(2) Each succeeding day on which this chapter is violated shall be a separate offense.

(b) If any title insurance agent shall willfully and knowingly falsify any public record or information required to be furnished, the title insurance agent shall be guilty of a Class D felony in addition to any civil liability.

History. Acts 2001, No. 1742, § 4.

SUBCHAPTER 2 — ARKANSAS TITLE INSURANCE AGENTS’ LICENSING BOARD

SECTION.

23-103-201. Creation—Members.

23-103-202. Organization and proceedings.

23-103-203. Duties and powers.

SECTION.

23-103-204. License fees, disposition of funds, and Title Insurance Agents’ Licensing Board Fund.

Effective Dates. Acts 2001, No. 1742, § 22; Sept. 18, 2001.

23-103-201. Creation—Members.

(a) There is created the Arkansas Title Insurance Agents’ Licensing Board.

(b)(1) The board shall consist of five (5) members appointed by the Governor, who shall serve four-year terms, subject to confirmation by the Senate.

(2) Two (2) members shall have been actively engaged in the title insurance business in the state for a period of five (5) years prior to appointment and shall serve an initial term of four (4) years each.

(3) One (1) member shall be knowledgeable of the title insurance business and shall serve an initial term of three (3) years.

(4) Two (2) members shall be citizens of the State of Arkansas and shall serve an initial term of two (2) years each.

(c) Vacancies on the board caused by death, resignation, or otherwise shall be filled by appointment of the Governor, subject to confirmation by the Senate.

(d) Any member may be appointed to successive terms, but no two (2) members shall be appointed from the same county.

(e) Each member shall serve without compensation but shall be reimbursed for travel and expenses in accordance with § 25-16-902.

History. Acts 2001, No. 1742, § 5.

23-103-202. Organization and proceedings.

(a)(1) The Arkansas Title Insurance Agents' Licensing Board shall organize by the election of a chair and a secretary-treasurer.

(2) The chair and secretary-treasurer shall have the power to administer oaths.

(b) The board shall have a seal and shall have the power to compel the attendance of witnesses by issuance of subpoena.

History. Acts 2001, No. 1742, § 6.

23-103-203. Duties and powers.

(a) The Arkansas Title Insurance Agents' Licensing Board shall keep a register of the names of each applicant for licensure, with the applicant's place of business and other information as may be deemed appropriate, including a notation of the action taken by the board and the date upon which any licenses are issued. In addition, the board shall maintain other records, registers, and files as may be necessary for the proper administration of its duties under this chapter.

(b) The board may adopt rules and regulations as it shall deem necessary or desirable for the proper administration of its powers and duties and the carrying out of the purposes of this chapter.

(c) The board may employ or contract with persons as it deems necessary and desirable to discharge its duties and powers.

(d) In addition to its other powers, the board may institute suits and other legal proceedings in a court of competent jurisdiction in Pulaski County, Arkansas, as may be required for the enforcement of this chapter.

History. Acts 2001, No. 1742, § 7.

23-103-204. License fees, disposition of funds, and Title Insurance Agents' Licensing Board Fund.

(a) The Arkansas Title Insurance Agents' Licensing Board shall collect fees as follows:

(1) For an issuing agent's license, the original license fee shall not exceed three hundred fifty dollars (\$350), and the renewal fee shall not exceed three hundred fifty dollars (\$350) annually;

(2) For a signing agent's license, the original license fee shall not exceed twenty-five dollars (\$25.00), and the renewal fee shall not exceed twenty-five dollars (\$25.00) annually;

(3) For an inactive status license fee, the original fee shall not exceed twenty-five dollars (\$25.00), and the renewal fee shall not exceed twenty-five dollars (\$25.00) annually; and

(4) The board shall have the authority to set reasonable fees established by regulation promulgated in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for the performance of its administrative duties, including, but not limited to, the testing of applicants for licenses, transferring licenses, replacing license certificates, and responding to inquiries from regulatory agencies in other states.

(b) All fees and charges collected under this chapter shall be paid by the board within a period of thirty (30) days after their receipt together with a detailed statement to the Treasurer of State, who shall place the sums remitted to the credit of the Title Insurance Agents' Licensing Board Fund which is created by this chapter.

(c) All moneys paid into State Treasury and credited to the fund, or so much as may be needed, shall be used by the board for the payment of all expenses and expenditures incurred under this chapter.

(d) Upon the request of the board, the Auditor of State shall draw warrants against the fund for expenses and expenditures, and the Treasurer of State shall pay the warrants out of the fund.

History. Acts 2001, No. 1742, § 8; 2003, No. 1767, § 2.

Amendments. The 2003 amendment rewrote (a).

SUBCHAPTER 3 — LICENSING REQUIREMENTS

SECTION.

- 23-103-301. License required.
- 23-103-302. Application of act and construction with other laws.
- 23-103-303. License — Application.
- 23-103-304. License — Examination.
- 23-103-305. License — Issuance or reapplication.
- 23-103-306. Nonresident licensing.
- 23-103-307. Abstractor's exemption from examination.
- 23-103-308. Temporary license.
- 23-103-309. Unregistered employees, officers, and assistants.

SECTION.

- 23-103-310. License — Expiration — Renewal.
- 23-103-311. Access to public records.
- 23-103-312. Revocation of license — Grounds.
- 23-103-313. Revocation of license — Procedure — Appeal.
- 23-103-314. Commitment and policy as evidence.
- 23-103-315. Transfer and cancellation of license.
- 23-103-316. Continuing education — Requirements.

Effective Dates. Acts 2001, No. 1742, § 22: Sept. 18, 2001.

23-103-301. License required.

(a) On and after January 31, 2002, a person shall not sell or receive a premium for a commitment or a contract of title insurance pertaining to real property in this state unless the person is:

- (1) A title insurer; or
- (2) Licensed as an issuing title insurance agent under this chapter.

(b) On and after January 31, 2002, no commitment or contract of title insurance pertaining to real property situated in the State of Arkansas shall be issued, sold, or exchanged unless the commitment and contract of title insurance is countersigned by a title insurance agent who is:

- (1) A resident of this state; and
- (2) Licensed under this chapter either as:
 - (A) An issuing title insurance agent; or
 - (B) A signing title insurance agent.

(c) The name of the signing agent making the countersignature and the number of the license certificate shall be printed or legibly written by hand underneath the countersignature.

History. Acts 2001, No. 1742, § 9; 2003, No. 1767, § 3.

Amendments. The 2003 amendment inserted "or receive a premium for" following "not sell" in the introductory language

of (a); inserted (a)(1); substituted "an issuing" for "a" in (a)(2); added (b)(1)(A) and (b)(1)(B); inserted "either as" in (b)(2); and made stylistic changes.

23-103-302. Application of act and construction with other laws.

Without any further qualification or examination, an attorney at law licensed to practice law by the State of Arkansas, upon written request to the Arkansas Title Insurance Agents' Licensing Board and payment of the original license fee, shall be immediately certified by the board as a licensed title insurance agent, and a license certificate shall be immediately issued to the attorney.

History. Acts 2001, No. 1742, § 2.

23-103-303. License — Application.

(a) Any person desiring to become a licensed title insurance agent shall make application to the Arkansas Title Insurance Agents' Licensing Board for license registration.

(b) The application shall be in a form prepared by the board and shall contain information as may be necessary to assist the board in registration and to determine if the applicant is qualified to act as a title insurance agent.

(c) Except as provided in subsection (e) of this section, each application shall be accompanied by the examination fee prescribed in § 23-103-204.

(d) The board shall notify the applicant of the time and place of the next scheduled examination, and notice of the examination shall be given to the applicant by mail.

(e) If the person seeking to become a licensed title insurance agent is a business entity, the application shall show the names of all members, partners, manager, venturers, officers, and directors of the business entity and shall designate each natural person who is to exercise the powers to be conferred by the license, and each natural person shall take the examination and pay the examination fee prescribed in § 23-103-204.

History. Acts 2001, No. 1742, § 10.

23-103-304. License — Examination.

The examination shall be in the form of written interrogatories as may be prescribed by the Arkansas Title Insurance Agents' Licensing Board from time to time to determine the proficiency of the applicant.

History. Acts 2001, No. 1742, § 11.

23-103-305. License — Issuance or reapplication.

(a) If the person satisfactorily passes the examination and is found by the Arkansas Title Insurance Agents' Licensing Board to:

- (1) Be at least eighteen (18) years of age;
- (2) Be a resident of the State of Arkansas for at least six (6) months;
- (3) Have not committed any act that is a ground for denial, suspension, or revocation set forth in § 23-103-312;
- (4) Have paid the original license fee prescribed by § 23-103-204; and
- (5) Be qualified,

the person shall be certified as a licensed title insurance agent, and the license certificate provided for shall be issued to the person. The privileges granted by the license certificate shall continue unless revoked or unless the certificate is surrendered to the board.

(b) If the person seeking to become a licensed title insurance agent is a business entity and the board finds each natural person designated by the business entity to exercise the powers to be conferred by the license:

- (1) Is at least eighteen (18) years of age;
- (2) Is a resident of the State of Arkansas for at least six (6) months;
- (3) Has not committed any act that is a ground for denial, suspension, or revocation set forth in § 23-103-312;
- (4) Has paid the original license fee prescribed by § 23-103-204; and
- (5) Is determined by the board to be qualified,

and the business entity has paid the original license fee prescribed by § 23-103-204, the business entity shall be certified as a licensed title insurance agent, and the license certificate provided for shall be issued to the person. The privileges granted by the license certificate shall continue unless revoked or unless the certificate is surrendered to the board.

(c)(1) The license certificate shall be in a form prescribed by the board and shall attest that the person possesses the knowledge, skill, ability, and understanding to act as a title insurance agent and is designated a licensed title insurance agent.

(2) The license certificate shall be prominently displayed in the office where the person is employed.

(d) A person failing to satisfy the board that the applicant possesses the qualifications or proficiency to become a licensed title insurance agent may reapply for registration if the application is accompanied by the examination fee provided for in § 23-103-204, but no application

shall be submitted sooner than five (5) months following the date on which the last previous examination was administered to the applicant.

(e)(1) The license certificate shall indicate whether the license is issued as:

- (A) An issuing agent license;
- (B) A signing agent license; or
- (C) A license for an inactive licensee.

(2) An issuing agent license shall be issued to an applicant if the applicant:

(A) Provides evidence satisfactory to the board that the applicant:

(i) May sell or receive premiums for commitments and contracts for title insurance issued by the applicant in the name of a title insurer; and

(ii) Is an insured under an errors and omissions policy of insurance in an amount no less than two hundred fifty thousand dollars (\$250,000) or other evidence of financial responsibility satisfactory to the board; and

(B) Satisfies the requirements for licensure under subsections (a) and (b) of this section.

(3) A signing agent license shall be issued to an applicant if the applicant:

(A) Provides evidence satisfactory to the board that upon licensure the applicant will be authorized by the issuing agent to countersign commitments and contracts of title insurance on behalf of the issuing agent; and

(B) Satisfies the requirements for licensure under subsections (a) and (b) of this section.

(4) An inactive signing agent's license shall be issued to all other applicants who otherwise would qualify for licensure under subsections (a) and (b) of this section.

History. Acts 2001, No. 1742, § 12;
2003, No. 1767, § 4.

Amendments. The 2003 amendment
added (e).

23-103-306. Nonresident licensing.

Unless denied licensure for having committed any act that is a ground for denial, suspension, or revocation set forth in § 23-103-312, a nonresident person shall receive a nonresident title insurance agent license without complying with the examination requirement prescribed by § 23-103-304 if:

(1) The person is currently a licensed title insurance agent as a resident and in good standing in that person's home state;

(2) The person has submitted the proper request for licensure as prescribed by the Arkansas Title Insurance Agents' Licensing Board, including proof of licensure in the home state, and has paid the original license fee prescribed by § 23-103-204; and

(3) The person's home state awards nonresident title insurance agent licenses to residents of this state on the same basis.

History. Acts 2001, No. 1742, § 13.

23-103-307. Abstractor's exemption from examination.

(a) Every person to whom the State of Arkansas has issued, as of January 1, 2001, a certificate of registration as a registered abstractor or a certificate of authority to engage in the business of abstracting shall be exempt from the examination required in § 23-103-304, and the person, including each natural person designated by a business entity to exercise the powers to be conferred by the title insurance agent's license, who is an Arkansas-registered abstractor on January 1, 2001, upon payment of the original license fee, shall be certified by the Arkansas Title Insurance Agents' Licensing Board as a licensed title insurance agent, and the license certificate shall be immediately issued to the person.

(b) An Arkansas-registered abstractor eligible for the exemption granted in this section shall become ineligible for the exemption after January 31, 2005.

History. Acts 2001, No. 1742, § 14;
2003, No. 1767, § 5.

Amendments. The 2003 amendment
added (b).

23-103-308. Temporary license.

(a) The Arkansas Title Insurance Agents' Licensing Board may issue a temporary title insurance agent's license for a period not to exceed one hundred eighty (180) days without requiring an examination, if the board deems that the temporary license is necessary in the following cases:

(1) To the surviving spouse or court-appointed personal representative of a licensed title insurance agent who dies or becomes mentally or physically disabled, to allow adequate time for the sale of the title insurance agent's business or for the recovery or return of the title insurance agent, or to provide for the training and licensing of new personnel to operate the title insurance agent's business; and

(2) Any circumstance in which the board deems that the public interest will best be served by the issuance of the temporary license.

(b) The board may revoke the temporary license at any time if the interest of the public is endangered.

History. Acts 2001, No. 1742, § 15.

23-103-309. Unregistered employees, officers, and assistants.

Nothing in this chapter shall be construed to prohibit any person holding a valid license from having the directors, partners, or members and employing the officers, personnel, and clerical and stenographic assistants as may be necessary in the conduct of its business who are not licensed under this chapter.

History. Acts 2001, No. 1742, § 16.

23-103-310. License — Expiration — Renewal.

(a)(1) All licenses issued under this chapter shall expire on the same date.

(2) Expiration dates of the licenses, either renewal or original, shall be January 31 following the year from the preceding expiration date.

(b)(1) Current licenses shall be renewed as provided for in this section for a one-year period upon payment of the renewal fee prescribed in § 23-103-204.

(2) If the license is held by a business entity, the renewal fee shall be paid for each natural person designated by the business entity to exercise the powers conferred by the license.

(c)(1)(A) No more than sixty (60) days nor less than thirty (30) days prior to the expiration date of the license issued, the Arkansas Title Insurance Agents' Licensing Board shall cause a notice of expiration and application for renewal to be mailed to each of the holders of a license.

(B) The notice and application shall be in a form prepared by the board.

(2) Upon determination by the board of the applicant's compliance with this chapter, a renewal license shall be issued to the applicant.

(d)(1)(A) If a holder of a license fails to apply for renewal and fails to pay the fee provided for renewal, the board shall cause to be mailed to the holder a notice that the license has expired and the person may no longer act as a title insurance agent.

(B) The notice shall be mailed not more than thirty (30) days following the license expiration date.

(C) The holder shall be granted an additional period of sixty (60) days from the date of mailing the notice within which to file an application for renewal.

(2)(A) The name of any holder failing to renew the license shall be stricken from the records of the board.

(B) The person shall no longer act as a title insurance agent until reinstated by the board.

History. Acts 2001, No. 1742, § 17.

23-103-311. Access to public records.

Licensed title insurance agents shall have access to the public records in any office of any city or county or of the state and shall be permitted to make memoranda, notations, or copies and to occupy reasonable space with equipment for that purpose, subject to the reasonable regulation of the custodian of the public records and during the business hours of each office.

History. Acts 2001, No. 1742, § 18.

23-103-312. Revocation of license — Grounds.

The Arkansas Title Insurance Agents' Licensing Board is authorized, after a hearing, to cancel and revoke any license issued to any person under this chapter:

- (1) For a violation of any of the provisions of this chapter;
- (2) Upon a conviction of the holder of a license of a crime involving moral turpitude; or
- (3) If the board finds the holder of the license to be guilty of habitual carelessness or of fraudulent practices.

History. Acts 2001, No. 1742, § 19.

23-103-313. Revocation of license — Procedure — Appeal.

(a)(1) Upon a verified complaint's being filed with the Arkansas Title Insurance Agents' Licensing Board, or upon the board's own motion filing a complaint charging the person holding a title insurance agent's license or any natural person designated by a business entity holding a title insurance agent's license to exercise the power conferred by that license with:

- (A) A violation of any of the provisions of this chapter;
- (B) Conviction of a crime involving moral turpitude; or
- (C) Habitual carelessness or fraudulent practices,

the board shall immediately notify the person in writing by registered mail, with return receipt, of the filing of the complaint and furnish that person with a copy of the complaint.

(2) The board shall at the same time require the person to appear before it on a day fixed by the board, not less than twenty (20) days nor more than forty (40) days from the date of the service of the complaint on that person, and to show cause why the license should not be canceled and revoked.

(3) Under the hand of its chair and the seal of the board, the board may subpoena witnesses and compel their attendance and may require the production of books, papers, and other documents.

(4) The Chair of the Arkansas Title Insurance Agents' Licensing Board or the Secretary-treasurer of the Arkansas Title Insurance Agents' Licensing Board may administer oaths or affirmations to witnesses appearing before the board.

(5)(A) If any person refuses to obey any subpoena so issued or refuses to testify or to produce any books, papers, or other documents, the board may present its petition to any court of record, setting forth the facts.

(B) In a proper case, the court shall issue its subpoena to the person requiring his or her attendance before the court and there to testify or produce the books, papers, and documents as may be deemed necessary and pertinent.

(6) The person holding the license shall be entitled to counsel at any hearing before the board or any other hearing involving revocation of his or her license.

(7) The board shall cause a transcript of any testimony taken to be made by a reporter or stenographer.

(b)(1)(A) Either the respondent or the complainant may appeal from the decision of the board to the circuit court in the county of the respondent's place of business.

(B) The appeal shall be taken within thirty (30) days after the decision of the board by causing a written notice of appeal to be served on the secretary-treasurer and executing a bond to the State of Arkansas, with surety to be approved by the secretary-treasurer, conditioned to pay all costs that may be adjudged against the appellant.

(2) Upon an appeal's being taken, the secretary-treasurer shall immediately make out a return of the proceedings in the matter before the board with its decision and file them together with the bond and all the papers pertaining thereto in his or her possession, including a certified record of testimony taken at the hearing, with the clerk of the court to which the appeal is taken.

(3) The court shall hear the appeal as a trial de novo, and the costs of the appeal, including the furnishing of the testimony, shall be taxed as the court may direct.

(4) An appeal shall stay the cancellation of any license until the final decision is had on appeal.

History. Acts 2001, No. 1742, § 20.

23-103-314. Commitment and policy as evidence.

A photostat or verbatim copy of any commitment or contract of title insurance pertaining to real property situated in the State of Arkansas shall be admissible in evidence on behalf of any party litigant in any court in the State of Arkansas and shall be prima facie evidence of the facts therein recited and contained.

History. Acts 2001, No. 1742, § 21.

23-103-315. Transfer and cancellation of license.

(a)(1) An issuing agent may effect the transfer of a signing agent's license or an inactive signing agent's license to the issuing agent by furnishing evidence satisfactory to the Arkansas Title Insurance Agents' Licensing Board that the signing agent has:

(A) Been authorized to countersign commitments and contracts of title insurance in the name of the issuing agent; and

(B) Otherwise satisfied the requirements for licensure under this chapter.

(2) The board shall then issue a replacement license certificate to the signing agent naming the issuing agent thereon.

(b)(1) An issuing agent shall effect the cancellation of a signing agent's license that has been placed with the issuing agent by providing evidence satisfactory to the board that the signing agent licensee no

longer may countersign commitments and contracts of title insurance on behalf of the issuing agent.

(2) The board shall then cancel the license certificate issued to the signing agent licensee.

(3) The signing agent's license shall be placed on inactive status.

History. Acts 2003, No. 1767, § 6.

23-103-316. Continuing education — Requirements.

(a) Beginning February 1, 2004, as a condition precedent to renewal or reactivation of licenses, licensees shall meet the following requirements:

(1)(A) Before activation of a license on inactive status, the licensee shall satisfactorily complete four (4) classroom hours or equivalent continuing education units or equivalent correspondence work of continuing education for each year inactive, not to exceed twenty (20) classroom hours.

(B) However, satisfying the requirements in subdivision (a)(1)(A) of this section will only satisfy the requirements for that particular license year and not for the following license year;

(2)(A) Persons licensed as title insurance agents shall successfully complete four (4) classroom hours or equivalent continuing education units or equivalent correspondence work of continuing education annually.

(B) At least one (1) hour or equivalent continuing education unit shall be in a specific topic or topics as identified by the Arkansas Title Insurance Agents' Licensing Board.

(C) Persons satisfying the requirements in subdivision (a)(2)(A) of this section shall be deemed to have successfully completed the continuing education requirements for the licensing year following the year in which first licensed in Arkansas; and

(3) A nonresident licensee may meet this state's continuing education requirements by taking courses that meet the continuing education requirements of his or her resident state for the licensing year in question if:

(A) The course or courses consist of no fewer than four (4) classroom hours or equivalent continuing education units of title insurance-related subjects and otherwise comply with the minimum requirements of this chapter; and

(B) Evidence of compliance satisfactory to the board is submitted in a form, manner, and content prescribed by the board.

(b) Licensees on inactive status are not required to comply with this subchapter during their inactive status.

(c) The board may waive all or part of the requirements of subsection (a) of this section for any licensee who submits satisfactory evidence of inability to meet the continuing education requirements due to health reasons or other hardship or extenuating circumstances beyond the licensee's control.

(d) Licenses for persons who apply for renewal of their license and who do not provide to the board evidence of meeting the continuing education requirements but who have otherwise met all requirements for license renewal shall be placed on inactive status until the evidence is provided to the board.

(e) If the licensee fails to complete the post-licensure education requirements within twelve (12) months after the date the license was issued, the board shall place the license on inactive status until the board receives documentation that the licensee has completed the post-licensure education requirements.

(f) The board may prescribe forms and certificates to be utilized by continuing education providers and licensees in the administration and completion of continuing education courses.

(g) The board may require continuing education providers to maintain course records and to make these records available to the board for audit and review.

(h) The board may require licensees to maintain continuing education records and to provide the records to the board to ensure compliance with the continuing education requirements.

(i) Renewal of a license issued to an attorney licensed in this state under § 23-103-302 is subject to § 23-103-310 except that the renewal shall not be subject to the continuing education requirements of this chapter.

History. Acts 2003, No. 1767, § 7.

CHAPTERS 104-109

[Reserved]

SUBTITLE 4. MISCELLANEOUS REGULATED INDUSTRIES

CHAPTER 110

ARKANSAS HORSE RACING LAW

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS RACING COMMISSION.
3. FRANCHISES GENERALLY.
4. CONDUCT OF MEETS.

A.C.R.C. Notes. References to "this chapter" in §§ 23-110-101 — 23-110-104 and subchapters 2-4 may not apply to § 23-110-105 which was enacted subsequently.

Effective Dates. Acts 1957, No. 46, § 33: July 1, 1957.

RESEARCH REFERENCES

ALR. Liability for injury or death of participant in horse race at public track. 13 ALR 4th 623.

Judicial review of administrative ruling affecting conduct or outcome of publicly

regulated horse, dog, or motor vehicle race. 36 ALR 4th 1169.

Am. Jur. 38 Am. Jur. 2d, Gambling, §§ 56-58.

C.J.S. 38 C.J.S., Gaming, § 8.

CASE NOTES

Cited: In re Armstrong, 217 Bankr. 569 (Bankr. E.D. Ark. 1998).

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-110-101. Title.

23-110-102. Inconsistent statutes inapplicable.

23-110-103. Construction.

SECTION.

23-110-104. Disposition of license fees, fines, etc.

23-110-105. Racing passes.

Effective Dates. Acts 1991, No. 1117, § 12: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of the Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 341, § 11: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided,

and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 7, § 12: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1995.”

Acts 1997, No. 73, § 12: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 2001, No. 61, § 2: became law without Governor’s signature. Feb. 1, 2001. Emergency clause provided: “It is hereby found and determined by the Eighty-third General Assembly that the distribution of horse racing passes by members of the General Assembly and constitutional officers results in a statewide distribution of those passes and be-

cause of the racial diversity of the membership of the General Assembly, it also further assures that the passes will be distributed in a racially diverse manner; that the General Assembly has great interest in promoting and nourishing tourism within the state and its distribution of passes to out-of-state persons will further the objective of the state to encourage tourism and profit thereby; that this act makes clear that members of the General Assembly and constitutional officers are merely conduits to accomplish the stated purposes of issuance of racing passes and that the passes do not constitute gifts or compensation to the membership of the General Assembly or constitutional officers; and unless this emergency clause is adopted, this act may not go into effect until after the current racing season. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

23-110-101. Title.

This chapter shall be referred to and may be cited as the “Arkansas Horse Racing Law”.

History. Acts 1957, No. 46, § 1; A.S.A. 1947, § 84-2727.

23-110-102. Inconsistent statutes inapplicable.

Section 5-66-116 and all other acts and parts of acts inconsistent with any of the provisions of this chapter are expressly declared not to apply to any person, partnership, group, association, trust, or corporation engaged or participating in racing, or making or contributing to the pari-mutuel or certificate method of wagering, in manner and form as provided for by this chapter, at any race meeting held or conducted by any franchise holder having a license for the holding or conducting of race meetings as provided by this chapter.

History. Acts 1957, No. 46, § 29;
A.S.A. 1947, § 84-2755.

CASE NOTES

Cited: Register v. Oaklawn Jockey Club, Inc., 306 Ark. 318, 811 S.W.2d 315 (1991).

23-110-103. Construction.

Nothing contained in this chapter shall in any way be construed to apply to any other method or manner of racing except the racing of horses as provided in this chapter.

History. Acts 1957, No. 46, § 28;
A.S.A. 1947, § 84-2754.

23-110-104. Disposition of license fees, fines, etc.

(a) All permits or license fees, excise or privilege taxes, penalties, fines, costs, and other amounts received by the Arkansas Racing Commission under the provisions of this chapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund.

(b) The Treasurer of State shall allocate and transfer the general revenues referred to in subsection (a) of this section to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by and to be used for the respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1957, No. 46, § 30;
A.S.A. 1947, § 84-2756.

23-110-105. Racing passes.

(a) The Director of the Department of Finance and Administration shall set a maximum number of racing passes to be printed and issued annually, and it shall not be less than the number printed in 1990.

(b)(1) Racing passes provided to and accepted by members of the General Assembly and constitutional officers are to be distributed by them to:

(A) Their constituents, in order to provide a statewide distribution of the racing passes; and

(B) Persons residing outside the State of Arkansas, in order to promote tourism and advance the economic interests of the state.

(2) The passes provided to the members of the General Assembly and constitutional officers are not for their personal use but are for redistribution as provided in this section and therefore do not constitute gifts or compensation to members of the General Assembly and constitutional officers for the purposes of any law of this state.

(c) This section does not prohibit members of the General Assembly and constitutional officers from redistributing racing passes to other members of the General Assembly or other state constitutional officers.

History. Acts 1991, No. 1117, § 5; 1993, No. 341, § 5; 1995, No. 7, § 6; 1997, No. 73, § 6; 2001, No. 61, § 1.

A.C.R.C. Notes. References to "this chapter" in §§ 23-110-101 — 23-110-104 and subchapters 2-4 may not apply to this section which was enacted subsequently.

Acts 2003, No. 943, § 5, provided: "RACING PASS RESTRICTIONS. The Director of the Department of Finance and Administration shall set a maximum number of

racing passes to be printed and issued annually and it shall not be less than the number printed in 1990. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005."

Publisher's Notes. Acts 1991, No. 1117, § 5, as amended, is also codified as § 23-111-105.

Amendments. The 2001 amendment redesignated the former paragraph as (a); and added (b) and (c).

SUBCHAPTER 2 — ARKANSAS RACING COMMISSION

SECTION.

23-110-201. Arkansas Racing Commission — Creation — Members.

23-110-202. Officers.

SECTION.

23-110-203. Proceedings.

23-110-204. Powers and duties.

23-110-205. Hearings.

Effective Dates. Acts 1975, No. 912, § 3: Apr. 7, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that under the present law members of the Arkansas State Racing Commission are entitled to receive only six cents (6¢) per mile for attending meetings for the Commission; that this mileage allowance is totally inadequate to cover the travel expenses of the members of the Commission and that the mileage allowance for members of the Commission should be established at the same rate as is prescribed by law for employees of the State of Arkansas; that this Act is designed to provide the same mileage allowance to members of the Arkansas State Racing Commission as is authorized employees of the State of Arkansas and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 776, § 9: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits

the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1987, No. 440, § 8: Mar. 26, 1987. Emergency clause provided: "It is hereby found and declared that horse racing and activities related thereto in Arkansas have had a most significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, which is threatened by increased competition from racing in other states, including new and improved plants and programs in surrounding and nearby states, and it is imperative that Arkansas franchise holders be able to increase purses and improve facilities in order to

keep up with competition and hold and improve Arkansas' premier and traditional position in horse racing; and that in order to accomplish these goals (essential to the welfare of the state and its citizens and residents) the amendments and purposes set forth in this act must be effective immediately. Therefore, an emergency is hereby declared to exist and this act, being immediately necessary for the protection of the public peace, health, and safety, shall take effect, and be in full force, immediately upon its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reim-

bursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-110-201. Arkansas Racing Commission — Creation — Members.

(a) A commission consisting of five (5) members, to be known as the "Arkansas Racing Commission", is created and established.

(b) The members of the commission shall be appointed by the Governor for terms of five (5) years. The term of office shall commence on January 15 and shall end on January 14 of the fifth year following the year in which that regular term commenced.

(c) Any vacancies arising in the membership of the commission for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by appointment by the Governor, to be thereafter effective until the expiration of the regular term.

(d)(1) Each congressional district shall be represented on the commission.

(2) Each member of the commission shall have been a resident of Arkansas for not less than ten (10) years next preceding the date of his or her appointment and shall be a qualified voter at the time of his or her appointment.

(3) No person who is officially connected with, employed by, financially interested in, or related to, within the third degree of consanguinity or affinity, any officer or stockholder of an applicant for, or any officer or stockholder of a holder of, a franchise applied for or issued under or pursuant to the provisions of this chapter shall be eligible to serve as a member of the commission.

(e) The Governor shall have the right to remove any member of the commission for cause.

(f) Before entering upon his or her duties, each member of the commission shall take, subscribe, and file in the office of the Secretary of State an oath to support the Constitution of the United States and

the Constitution of the State of Arkansas and to faithfully perform the duties of the office upon which he or she is about to enter.

(g) Members of the commission shall not receive compensation for their services, but, within the limitations of appropriations made available by the General Assembly, each member may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1957, No. 46, §§ 2-4, 7; 1965, No. 176, § 1; 1975, No. 912, § 1; 1981, No. 776, § 5; A.S.A. 1947, §§ 84-2728 — 84-2730, 84-2733, 84-2733.1; Acts 1997, No. 250, § 226.

Publisher's Notes. The terms of the members of the Arkansas Racing Commission are arranged so that one term expires every year.

23-110-202. Officers.

(a) The Governor shall from time to time select from the membership of the Arkansas Racing Commission a chair and a vice chair.

(b)(1) The Director of the Department of Finance and Administration shall be ex officio secretary of the commission unless the Governor shall designate another person from the Revenue Division of the Department of Finance and Administration to serve in that capacity, but the Secretary of the Arkansas Racing Commission shall not be a member of the commission nor shall he or she have a vote on matters coming before it.

(2) The secretary shall be its executive officer and shall administer the provisions of this chapter and the rules, regulations, and orders established under this chapter.

(3) By resolution duly adopted, the commission may delegate to the secretary any of the powers or duties vested in or imposed upon the commission by this chapter, and the delegated powers and duties may be exercised by the secretary in the name of the commission.

(4) The secretary shall be custodian of all property held in the name of the commission and shall be the ex officio disbursing agent of all funds available for its use.

(5) The secretary shall furnish bond to the state, with a corporate surety thereon, in the penal sum of twenty-five thousand dollars (\$25,000), conditioned that he or she will faithfully perform his or her duties of office and properly account for all funds received and disbursed by him or her as secretary.

(6) Within such limitations as may be provided by appropriations therefor, the secretary may employ such assistants and other personnel as are, in his or her opinion, necessary to properly administer the provisions of this chapter.

History. Acts 1957, No. 46, §§ 5, 6; A.S.A. 1947, §§ 84-2731, 84-2732.

A.C.R.C. Notes. The operation of subdivision (b)(5) of this section was suspended by adoption of a self-insured fidelity bond program for public officers,

officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subdivision may again become effective upon cessation of coverage under that program. See § 21-2-703.

23-110-203. Proceedings.

(a)(1) All meetings of the Arkansas Racing Commission shall be public, and it shall keep a complete record of its transactions, findings, and determinations.

(2) The rules may provide for regular meetings and may provide for special meetings at the call of the Chair of the Arkansas Racing Commission or of the Vice Chair of the Arkansas Racing Commission if the vice chair becomes for any reason the acting chair, either at his or her own instance or upon the written request of at least three (3) members.

(3) Meetings shall be held at such place as in each instance may suit the commission's convenience.

(b)(1) A quorum for the transaction of business shall consist of not fewer than three (3) members present at any regular or special meeting, and the affirmative vote of that number shall be necessary for the disposition of any business.

(2) Voting by proxy is prohibited.

History. Acts 1957, No. 46, § 5; 1965, No. 176, § 2; A.S.A. 1947, § 84-2731.

23-110-204. Powers and duties.

(a) Subject to the limitations and conditions as provided in this chapter or other applicable law, the Arkansas Racing Commission shall have sole jurisdiction over the business and the sport of horse racing in this state where the racing is permitted for any stake, purse, or reward, and, in exercising its jurisdiction, but without necessarily being limited to the following enumeration, it shall be the function, power, and duty of the commission to:

(1) Grant franchises to conduct horse races;

(2) Approve dates for each racing meet and issue permits therefor;

(3) Issue licenses to horse owners, horse trainers, jockeys, and jockeys' agents;

(4) Collect and deposit in the State Treasury all fees for franchises and licenses for all taxes, other imposts, and all other moneys due the State of Arkansas in relation to horse racing;

(5) Hear and determine all matters properly coming before the commission and grant rehearings thereon;

(6) Take such other action, not inconsistent with law, as it may deem necessary or desirable to supervise and regulate, and to effectively control in the public interest, horse racing in the State of Arkansas.

(b) The commission shall have full, complete, and sole power and authority to promulgate rules, regulations, and orders and prescribe conditions under which horse racing shall be conducted by a franchise holder, but the power and authority so granted shall be exercised by the commission in a reasonable manner, and the holder of any franchise, or any taxpayer, shall have redress to the Pulaski County Circuit Court for

any wrong committed by the commission in the exercise of the power and authority granted in this chapter.

(c)(1) The commission shall have no right or power to determine who shall be officers or employees of any franchise holder.

(2)(A) However, the commission may by rule require that all officers, employees, or agents of the franchise holder who are in charge of, or whose duties relate directly to, the running of races and the handling of any funds which may be wagered on any race are to be approved by the commission.

(B) The commission may compel the discharge of any official, employee, or agent of the franchise holder who fails or refuses to comply with the rules, regulations, or orders of the commission, or who, in the opinion of the commission, is guilty of fraud or dishonesty.

(d) For the purpose of regulating its own procedure and carrying out its functions, powers, and duties, the commission shall have the authority from time to time to make, amend, and enforce all necessary or desirable rules and regulations not inconsistent with law.

History. Acts 1957, No. 46, §§ 5, 8, 16; A.S.A. 1947, §§ 84-2731, 84-2734, 84-2742; Acts 1987, No. 440, § 1.

Publisher's Notes. Acts 1987, No. 440, § 5, provided: "The purpose of this act is to put the franchise holder in a position to maintain and improve its high level of racing operations in the face of increasing and severe competition by distributing adequate purses and undertaking and completing substantial programs of construction, reconstruction, and maintenance of facilities. It is intended that the franchise holder shall proceed in reliance upon the provisions of this act to incur sufficient debt to undertake a program of construction, reconstruction, and maintenance of facilities in the immediate future and to proceed with it in an orderly manner. The franchise holder shall periodically keep the commission advised of the nature of and progress made concerning its programs of construction, reconstruction, and maintenance of facilities."

Acts 1987, No. 440, § 6, provided: "The provisions of this act shall be effective as

of January 1, 1987, and thereafter. To this end, the provisions of this act shall be applicable to the racing meet conducted in calendar year 1987 as though it had been in effect when that meet started except as to:

"(a) the increased amounts to be withheld on races where the wagerer is required to select more than one (1) horse; and

"(b) the amount over six percent (6%), being fifty-five hundredths of one percent (.55%), paid to the commission for the use and benefit of the State of Arkansas under the provisions of § 23-110-408(a) [repealed]. The increased and additional amounts specified in (a) and (b) above can be withheld only on races run after March 26, 1987. Also, all actions taken by the franchise holder, commission, and city, town, or county prior to and subsequent to the enactment of this act which are in accordance with the provisions of this act are hereby authorized, approved, and ratified."

CASE NOTES

ANALYSIS

Right to race.
State action.

Right to Race.

There is nothing in the Arkansas stat-

utes or the rules of the Racing Commission that states that a licensed owner or jockey has a right to race. *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980), cert. denied, 451 U.S. 910, 101 S. Ct. 1980, 68 L. Ed. 2d 299 (1981).

State Action.

The action of a private corporation, which had a public franchise to operate the only state thoroughbred race track, in failing to recommend a thoroughbred horse owner and trainer for a license and in failing to provide him with stall space before any hearing was held was not state

action. *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980), cert. denied, 451 U.S. 910, 101 S. Ct. 1980, 68 L. Ed. 2d 299 (1981).

Cited: *Arkansas State Racing Comm'n v. Sayler*, 249 Ark. 913, 462 S.W.2d 472 (1971).

23-110-205. Hearings.

(a)(1) In the event any franchise holder or person is aggrieved by any action of the Arkansas Racing Commission, he or she shall be entitled to a hearing by the commission.

(2) The hearing shall be held at such place in the State of Arkansas and at such time as the commission may designate. Notice shall be served on the parties affected by mailing to those parties by registered United States mail the notice of the time and place that the hearing will be held.

(3) In conducting the hearing, the commission shall not be bound by technical rules of evidence.

(4) Any of the parties affected by the hearing may be represented by counsel and shall have the right to introduce evidence. In its discretion, the commission may likewise be represented by counsel at the hearing, and such counsel shall participate in the conduct of the hearing for and on behalf of the commission.

(b)(1)(A) For purposes of conducting the hearing, the commission shall have the power to administer oaths, issue subpoenas, and compel the attendance and testimony of witnesses.

(B) Any person who has been served with a subpoena to appear and testify issued by the commission in the course of an inquiry or hearing conducted under the provisions of this chapter and who refuses or neglects to appear or testify relative to the hearing as commanded in the subpoena shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(2) In connection with any hearing, the commission or the aggrieved may cause the deposition of witnesses within or without the state to be taken in the manner prescribed by existing statutes for the taking of depositions in this state.

(c) All hearings shall be held before at least three (3) members of the commission, and the concurrence of at least three (3) members of the commission shall be necessary for any finding or order.

(d)(1) At the conclusion of the hearing, the commission shall make its findings to be the basis for the action taken by the commission.

(2) The findings and order shall be subject to review in the Pulaski County Circuit Court, from which an appeal may be taken to the Arkansas Supreme Court.

History. Acts 1957, No. 46, § 19; 1965, No. 176, § 3; A.S.A. 1947, § 84-2745.

CASE NOTES

ANALYSIS

In general.
Evidence.

In General.

Applicant for a franchise aggrieved at action of commission in rejecting application is entitled to a hearing. *Dixie Downs, Inc. v. Arkansas Racing Comm'n*, 219 Ark. 356, 242 S.W.2d 132 (1951) (decision under prior law).

Evidence.

Hearsay evidence that normally would be excluded in a trial may be used in a hearing before an administrative agency. *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980), cert. denied, 451 U.S. 910, 101 S. Ct. 1980, 68 L. Ed. 2d 299 (1981).

SUBCHAPTER 3 — FRANCHISES GENERALLY

SECTION.

- 23-110-301. Horse racing permitted — Limitations.
- 23-110-302. Application — Issuance of temporary franchise — Hearing and appeal.
- 23-110-303. Approval of electors required.
- 23-110-304. Election.

SECTION.

- 23-110-305. Construction of racing plant — Issuance of permanent franchise.
- 23-110-306. Subsequent referendum elections.
- 23-110-307. Franchise granted prior to July 1, 1957.
- 23-110-308. Employees.

CASE NOTES

Duty of Ordinary Care.

Racetrack owed a duty to exercise ordinary care to patron who placed what turned out to be a winning bet but machine failed to issue a conforming ticket.

Register v. Oaklawn Jockey Club, Inc., 306 Ark. 318, 811 S.W.2d 315 (1991), modified on reh'g, 306 Ark. 321, 821 S.W.2d 475 (1991).

23-110-301. Horse racing permitted — Limitations.

(a)(1) Horse racing may be conducted in all political subdivisions of the State of Arkansas, in addition to the City of Hot Springs, Garland County, Arkansas, where horse racing has been made lawful by Arkansas Constitution, Amendment 46, but only by the holder of a franchise granted by the Arkansas Racing Commission.

(2) The commission may grant a franchise only to a corporation organized under the laws of this state.

(b)(1) Franchises may not be granted by the commission to individuals, partnerships, associations, trusts, or to any others except corporations as provided in this section.

(2) However, in the event that the limitations contained in subdivision (b)(1) of this section are declared unconstitutional, then the

commission may grant franchises to individuals, partnerships, associations, trusts, and corporations.

(c) Wherever the word "corporation" shall appear in this chapter, it shall be deemed to include the enumeration in subdivision (b)(2) of this section in the event of any declaration of unconstitutionality.

(d) The commission may not grant more than one (1) franchise for conducting horse racing meets in a single county.

(e) No franchise or temporary franchise shall be granted whenever the cost of the plant proposed to be constructed, including lands, buildings, facilities, and equipment, shall be less than three million dollars (\$3,000,000).

History. Acts 1957, No. 46, §§ 9, 11;
A.S.A. 1947, §§ 84-2735, 84-2737.

23-110-302. Application — Issuance of temporary franchise — Hearing and appeal.

(a) Any corporation desiring a franchise to conduct horse racing in any county in which a current franchise for horse racing is not held by another shall file its application therefor with the Arkansas Racing Commission and deposit with the commission the sum of five thousand dollars (\$5,000) to cover the expenses of publishing legal notices and to pay a pro rata part of the costs of the general election, as provided in this chapter.

(b) The application shall set forth:

(1) The name of the corporation and the address of its principal office;

(2) The names and addresses of all of the corporation's officers, directors, and stockholders;

(3) The name and address of the corporation's agent for service of process;

(4) The corporation's latest financial statements;

(5) The estimated amount of funds which the corporation proposes to spend for the acquisition of a site, the construction thereon of buildings and facilities, and the purchase of equipment for conducting racing meets;

(6) Copies of architectural plans and specifications for the buildings and facilities; and

(7) Such other information and requirements as the commission shall determine as being necessary to enable it to pass upon the application.

(c)(1)(A) Immediately upon the filing of each application, the commission shall:

(i) Investigate the personal background and financial responsibility of the officers, directors, and principal stockholders of the corporation;

(ii) Examine the plans and specifications of the buildings and facilities proposed to be constructed; and

(iii) Take into consideration such other facts and conditions as it shall find necessary or desirable in the premises.

(B) Within ninety (90) days after the date of the filing of any application, the commission shall grant, or refuse to grant, a temporary franchise to the corporation.

(2) However, in all instances the commission shall give the applicant and all others who shall have filed written requests to be heard on the question not less than ten (10) days' notice of the date it proposes to formally consider the application, and all interested parties shall have the right to appear before the commission and be heard. The commission shall make a record of its proceeding at each hearing.

(d)(1) Should the commission refuse to grant a temporary franchise, it shall set forth in writing its reasons for the refusal. A copy of the writing shall immediately be sent to the applicant by registered United States mail to the address named in the application.

(2) Within sixty (60) days after the date of any refusal, the applicant may file with the commission amendments to the application for the purpose of overcoming any of the objections on which the commission based its refusal to grant a temporary franchise. Within thirty (30) days after receipt of any amendments, the commission shall either confirm its original refusal, or it may grant a temporary franchise.

(3) Either within twenty (20) days following the date of original refusal or within twenty (20) days following the date of refusal after the filing of any amendments, the applicant may appeal to the Pulaski County Circuit Court. The appeal shall be tried de novo on the record of the hearing before the commission.

(4) An appeal may be taken by the commission or by the applicant from the circuit court to the Arkansas Supreme Court, which shall likewise be tried de novo.

(5) The mandate of the court shall be filed with the commission.

(e)(1) Should the commission grant a temporary franchise on its own motion or based upon the decision of the court, then the fact of the grant shall be certified by the commission to the Secretary of State, and the five thousand dollars (\$5,000) deposited with it under the provisions of subsection (a) of this section shall be paid over to the Secretary of State by the commission.

(2) Should a temporary franchise not be granted under this section, the funds deposited with the commission under subsection (a) of this section shall be refunded to the corporation by the commission.

History. Acts 1957, No. 46, § 12; 1965 (2nd Ex. Sess.), No. 8, § 2; A.S.A.1947, § 84-2738.

23-110-303. Approval of electors required.

The Arkansas Racing Commission shall not be authorized to grant, nor shall it grant, a franchise to any corporation to conduct horse racing in any county in this state unless the commission has been authorized

to grant the franchise as expressed by the approval of a majority of the qualified electors of the state voting on the proposition at the regular statewide biennial general election, as set forth in this chapter.

History. Acts 1957, No. 46, § 10; 1961, No. 57, § 1; 1965 (2nd Ex. Sess.), No. 8, § 1; A.S.A. 1947, § 84-2736.

CASE NOTES

Cited: *Swanberg v. Tart*, 300 Ark. 304, 778 S.W.2d 931 (1989).

23-110-304. Election.

(a)(1) After receipt of the certification provided for in § 23-110-302(e), the Secretary of State shall cause to be published by one (1) insertion in a newspaper of general circulation published in each county of this state, not less than thirty (30) days nor more than sixty (60) days before the next general election, a notice reading substantially as follows:

“NOTICE is hereby given that at the next general election the following question will be placed upon the ballot for the approval or rejection by the qualified electors of the state voting at such general election:

“Shall the Arkansas Racing Commission be authorized to grant a franchise to conduct horse racing in County, Arkansas?

“Given under my hand on this day of, 20.....
Secretary of State of the State of Arkansas”

(2) If there is no such newspaper published in any county, the notice may be published in any newspaper having a general circulation in the county.

(b) Within the time prescribed by law for the certification of other questions to be submitted to a vote of the people at a general election, the Secretary of State shall duly certify to the county boards of election commissioners of the several counties of the state the question as set forth in the notice provided for in subsection (a) of this section.

(c) The county board of election commissioners of each county shall cause to be printed on the general election ballot the following:

“Shall the Arkansas Racing Commission be authorized to grant a franchise to conduct horse racing in
County, Arkansas?

FOR authorizing the Arkansas Racing Commission to grant a franchise to conduct horse racing inCounty, Arkansas
.....☐

AGAINST authorizing the Arkansas Racing Commission to grant a franchise to conduct horse racing in County, Arkansas
.....☐”

(d)(1) The county boards of election commissioners shall canvass the vote and, as in the instance of other statewide measures voted on by the people, certify the results to the Secretary of State who shall forthwith tabulate all returns so received by him or her and, by published notice in a newspaper having a statewide circulation, proclaim the result of the election setting out in the proclamation the total vote for and against the question submitted as provided in subsection (c) of this section.

(2) The result of the election as so proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication of the proclamation, and all contests in relation thereto shall be under the general election laws of this state.

(3) The Secretary of State shall file a certified copy of the proclamation with the Arkansas Racing Commission, and the commission shall immediately notify the corporation of the result of the election.

(4) If a majority of the qualified electors of the state voting on the question vote against authorizing the commission to grant the franchise to conduct horse racing in the county, the temporary franchise held by the corporation shall, ipso facto, be null and void as of the final date on which a contest of the results of the election may be commenced, or, in the event of contest, upon the date of final determination of the issue.

(e) By use of the moneys deposited with the Secretary of State under the provisions of § 23-110-302(e), the Secretary of State shall first pay the cost of publication of legal notices required under this section. Any funds which remain from the deposit shall be paid over in equal amounts to the treasurers of the several counties of the state for credit to the general fund.

History. Acts 1957, No. 46, § 13; 1961, No. 57, § 2; 1965 (2nd Ex. Sess.), No. 8, § 3; A.S.A. 1947, § 84-2739.

23-110-305. Construction of racing plant — Issuance of permanent franchise.

(a)(1)(A) If a majority of the qualified electors of the state voting on the question vote for authorizing the Arkansas Racing Commission to grant a franchise to conduct horse racing in the county, the corporation holding a temporary franchise shall, within ninety (90) days following the date of receipt of notification thereof from the commission as provided in § 23-110-304(d), acquire a site and commence the construction of buildings and facilities which it proposes to use in conducting horse racing meets.

(B) Failure of the corporation to acquire a site and commence construction within the ninety-day period shall constitute a forfeit of the temporary franchise.

(C) The commission shall cancel the temporary franchise of any holder of such a franchise, and the cancellation shall constitute a forfeit thereof by the corporation if the:

(i) Holder of a temporary franchise acquires a site and commences construction within the ninety-day period but fails to complete construction and be open for business within one (1) year next following the end of the ninety-day period;

(ii) Construction by the holder of a temporary franchise is not in substantial compliance with the plans and specifications theretofore filed with, and approved by, the commission; or

(iii) Aggregate total of costs of acquisition of a site, construction of buildings and facilities, and purchase of equipment by the holder of a temporary franchise is less than three million dollars (\$3,000,000).

(2) However, nothing contained in this section shall be so construed as to prohibit mutual agreement on the part of the commission and the corporation to making such changes in the plans and specifications for construction as may be deemed necessary or desirable, but no changes may be agreed to which will have the effect of reducing the total aggregate cost of plant and equipment below three million dollars (\$3,000,000).

(b)(1) Upon completion of any plant, within the time, in the manner, and at the minimum cost as provided in subsection (a) of this section and upon the payment of a franchise fee in the amount of twenty-five thousand dollars (\$25,000) to the commission by the holder of the temporary franchise, the commission shall issue its franchise in exchange for the temporary franchise held by the corporation. The corporation may then proceed to conduct horse racing meets in accordance with the provisions of this chapter or other applicable law.

(2) The franchise shall thereafter be effective in the hands of the corporation unless and until terminated by operation of law, or sooner if terminated by the commission based upon the corporation's failure to comply with applicable horse racing laws or by the voluntary forfeiture of the franchise by the franchise holder.

History. Acts 1957, No. 46, § 15; 1965 (2nd Ex. Sess.), No. 8, § 4; A.S.A. 1947, § 84-2741; Acts 2001, No. 1553, § 54.

Amendments. The 2001 amendment rewrote (a)(1)(C).

CASE NOTES

Cited: *Swanberg v. Tart*, 300 Ark. 304, 778 S.W.2d 931 (1989).

23-110-306. Subsequent referendum elections.

(a) After the elapse of not less than two (2) years next following the date of any election conducted pursuant to § 23-110-304, upon petitions filed with it containing the signatures of qualified electors of the county of not less than fifteen percent (15%) of the total number voting in the election for county clerk of the county at the next preceding general election, together with a sum of money estimated by the county board of election commissioners as sufficient to pay all expenses of the

election, the board shall call a special election on the proposition of continuing horse racing in the county.

(b)(1) The date of the special election shall be fixed by the board on a day not less than thirty (30) days nor more than ninety (90) days following the date of the filing of the petitions. The deposit of the funds, and the election, shall be conducted and shall be subject to contest under the general election laws of this state.

(2) The proposition printed on the ballot shall be "FOR Horse Racing" and "AGAINST Horse Racing".

(3) By published notice, the board shall proclaim the results of the election and shall also certify the results to the commission.

(4) All contests in relation to the results of the election shall be commenced within twenty (20) days next following the date of publication of notice as given pursuant to this subsection.

(c) If a majority of the qualified electors of the county voting on the question shall disapprove the continuance of horse racing, the franchise held by the corporation shall, ipso facto, be null and void as of the final date on which a contest of the results of the election may be commenced or, in the event of contest, upon the date of final determination of the issue.

History. Acts 1957, No. 46, § 14;
A.S.A. 1947, § 84-2740.

Cross References. Election laws, § 7-1-101 et seq.

23-110-307. Franchise granted prior to July 1, 1957.

(a) Any franchise granted prior to July 1, 1957, to conduct horse racing in this state is validated, and the action of the authority granting the franchise is ratified and confirmed.

(b) Whether or not the franchise has been granted for a definite period of time, the holder of such a franchise shall, upon the payment of an additional franchise fee in the amount of ten thousand dollars (\$10,000) and the surrender of the franchise now held by it, be granted by the Arkansas Racing Commission a franchise for horse racing in the county covered by the surrendered franchise. This franchise shall continue in effect so long as the holder thereof shall comply with all applicable laws of this state relating to horse racing or until the rights thereunder shall terminate by operation of law making horse racing unlawful in the area covered by the franchise or until the forfeit of the franchise by the holder thereof.

History. Acts 1957, No. 46, § 10;
A.S.A. 1947, § 84-2736.

23-110-308. Employees.

(a)(1) Each franchise holder under this chapter shall require each of its employees to complete a written application for employment. Among other things, the application shall state:

(A) Whether the applicant is a registered voter in Arkansas; and

(B) If the applicant is a registered voter in Arkansas, the date on which the applicant became a registered voter in Arkansas.

(2) Each application shall be signed by the applicant. If the information contained in the application is false, then the applicant shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(b)(1) At least eighty percent (80%) of the employees of each franchise holder under this chapter shall be registered voters in Arkansas, excluding employees in the franchise holder's pari-mutuel department and the following professional racing officials:

- (A) Stewards;
- (B) Judges;
- (C) Racing secretary;
- (D) Starter;
- (E) Clerk of scales;
- (F) Paddock judge;
- (G) Patrol judges; and
- (H) Identifier.

(2) At least sixty percent (60%) of the employees in the franchise holder's pari-mutuel department shall be registered voters in Arkansas.

(c)(1) The Arkansas Racing Commission is authorized to examine the applications of all employees of any franchise holder, and if the franchise holder is found by the commission to have fewer than the required number of employees who are registered voters in Arkansas, then the franchise holder shall be allowed forty-eight (48) hours, when so ordered by the commission, to make the necessary adjustments in its employees so as to be in compliance with this section.

(2) In the event the franchise holder fails or refuses to comply with a commission order, then it shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

History. Acts 1969, No. 280, §§ 1-3;
A.S.A. 1947, §§ 84-2761 — 84-2763.

SUBCHAPTER 4 — CONDUCT OF MEETS

SECTION.

- 23-110-401. Accordance with license required.
- 23-110-402. Number of racing days — Sunday racing — Approval of programs.
- 23-110-403. Application for license to conduct meet — Issuance.
- 23-110-404. License for horse owner, horse trainer, jockey, and jockey agent required.
- 23-110-405. Wagering — Penalty for improper wagering.

SECTION.

- 23-110-406. Disposition of wagering money — Payment to winning bettors required — Exceptions.
- 23-110-407. Disposition of wagering money — Portion for franchise holder.
- 23-110-408. [Repealed.]
- 23-110-409. Disposition of wagering money — Arkansas Racing Commission Purse and Awards Fund.

SECTION.

- 23-110-410. Disposition of wagering money — Breaks.
 23-110-411. Admission tax.
 23-110-412. Record keeping by franchise holder — Audit.

SECTION.

- 23-110-413. Access to meets, books, records, etc.
 23-110-414. Franchise holder required to give bond.
 23-110-415. Failure to pay tax.

Preambles. Acts 1967, No. 130, § 5, in part, contained a preamble which read: "In order to further encourage the breeding of thoroughbred horses in Arkansas and to encourage owners and trainers of thoroughbred horses to establish homes, headquarters and thoroughbred horse farms in Arkansas..."

Effective Dates. Acts 1961, No. 3, § 2: Jan. 18, 1961. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that additional revenue is needed by the State of Arkansas and the City of Hot Springs in order that each may more effectively carry out its functions as provided by law, and that an extension of the annual Spring Race Meet in Hot Springs, as authorized only by this measure, will produce substantial increased revenues for the State and City for said purposes. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force on and after the date of its passage and approval."

Acts 1965, No. 142, § 5: Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas: (a) that traffic accidents resulting in injuries and deaths of persons and damages to property are increasing at an alarming rate; (b) that present revenues for employment of personnel in the Department of Arkansas State Police are wholly inadequate to properly handle the problem of highway safety; and (c) that only the provisions of this act will tend to provide funds in amounts sufficient to employ the necessary personnel to patrol the highways and thereby reduce the incidence of highway accidents. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of public peace, health and safety shall take effect and be in full force on and after its passage and approval."

Acts 1973, No. 780, § 5: July 1, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Sixty-Ninth General Assembly has provided additional funds for the support of the Police Services Division of the Department of Public Safety from the General Revenues of the State; that since such additional General Revenue funds are provided, it is desirable that certain funds heretofore designated as Special Revenues for the support of the State Police be hereafter designated as General Revenues, and that it is essential that this Act become effective on July 1, 1973, in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1973."

Acts 1975, No. 352, § 3: Mar. 10, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to enable the State Racing Commission to adequately and efficiently regulate the conduct of horse and greyhound racing meets in this State it is necessary to establish appropriate fees for the owners, trainers, jockeys, and jockey agents at such racing meets. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 672, § 5: Mar. 30, 1979. Emergency clause provided: "There is presently authority for a total of sixty-two racing days during a calendar year but a single meet cannot under present law exceed 50 racing days. Great expense is incurred by the franchise holders, owners, trainers, jockeys and others in preparing for a racing meet, and because of inclement weather and other circumstances, it appears that more flexibility is needed as to the maximum number of days in any

single meet in order to insure a successful operation. This also inures to the economic benefit of the State of Arkansas and the city where the meet is held. Present revenue will continue and additional revenue may be made available for needed public purposes. This Act grants such flexibility without which the above recited benefits will not be available. Therefore, and emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force on and after the date of its passage and approval."

Acts 1979, No. 733, § 4: Apr. 5, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that cities in which horse racing meets are conducted are in serious need of additional funds for providing additional police and fire protection, construction and maintenance of streets and providing other municipal services; that this Act is designed to provide necessary additional funds for such cities and should be given effect immediately in order that such cities can receive such additional funds from odd cents and breaks at the 1979 horse racing meet. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 440, § 8: Mar. 26, 1987. Emergency clause provided: "It is hereby found and declared that horse racing and activities related thereto in Arkansas have had a most significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, which is threatened by increased competition from racing in other states, including new and improved plants and programs in surrounding and nearby states, and it is imperative that Arkansas franchise holders be able to increase purses and improve facilities in order to keep up with competition and hold and improve Arkansas' premier and traditional position in horse racing; and that in order to accomplish these goals (essential to the welfare of the state and its citizens and residents) the amendments and purposes set forth in this act must be effective immediately. Therefore, an emergency is hereby declared to exist and this act, be-

ing immediately necessary for the protection of the public peace, health, and safety, shall take effect, and be in full force, immediately upon its passage and approval."

Acts 1988 (3rd Ex. Sess.), No. 14, § 4: Feb. 9, 1988. Emergency clause provided: "The development of thoroughbred horse breeding in Arkansas with its attendant economic benefits to the State and its citizens, have had a most favorable impact on the economy of the entire State and the welfare of our citizens and residents; it is imperative that the Arkansas Racing Commission be able to determine eligibility for participation in the Arkansas Racing Commission Purse and Awards Fund and in races that are restricted to registered Arkansas-bred thoroughbred horses; in order to accomplish these goals essential to the welfare of the State and its citizens and residents, the amendments and purposes set forth in this Act must be effective immediately. Therefore, an emergency is hereby declared to exist, and this Act, being immediately necessary for the protection of the public peace, health and safety, shall take effect, and be in full force, immediately upon its passage and approval."

Acts 1989, No. 12, § 8: Feb. 3, 1989. Emergency clause provided: "It is hereby found and declared that horse racing and activities related thereto in Arkansas have had a most significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, which is threatened by increased competition from racing in other states, including new and improved plants and programs in surrounding and nearby states, and it is imperative that Arkansas franchise holders be able to increase purses and improve facilities in order to keep up with competition and hold and improve Arkansas' premiere and traditional position in horse racing, and that in order to accomplish these goals (essential to the welfare of the state and its citizens and residents) the amendments and provisions set forth in this act must be effective immediately. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the protection of the public peace, health and safety, shall take effect, and be in full force, immediately upon its passage and approval."

Acts 1999, No. 10, § 7: Feb. 2, 1999. Emergency clause provided: "It is hereby determined by the General Assembly that horse racing and activities related thereto in Arkansas have a significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, and it is imperative that the provisions of this act be effective to the fullest extent possible with respect to the upcoming racing season scheduled to begin January 29, 1999 in order to maintain and improve Arkansas' premier and traditional position in horse racing, and in order to accomplish these goals (essential to the welfare of the state and its citizens and residents) the amendments and provisions set forth in this act must be effective immediately. Therefore, an emergency is hereby declared to exist, and this act, being immediately necessary for the preservation of the public peace, health and safety, shall take effect, and be in full force, immediately from and after its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1576, § 5: Apr. 15, 1999. Emergency clause provided: "It is hereby determined by the Eighty-second General Assembly that horse racing and activities related thereto in Arkansas have a significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, that competition from outside the State of Arkansas is having an adverse impact on the horse racing industry in Arkansas, that these economic conditions adversely affect the benefit to the State of Arkansas directly and indirectly accruing from horse racing and related activities in Arkansas, that it is imperative that Arkansas franchise holders be able to encourage patronage and tourism in order to keep up with competition and hold and improve Arkansas' premier and traditional position in horse racing, and in order to accomplish these goals (essential to the welfare of the state and its citizens and residents), the amendments and provisions set forth in this act must be effective immediately. Therefore, an emergency is hereby declared to exist, and this act, being immediately necessary for the preservation of the public peace, health and safety, shall take effect, and be in full force, immediately from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1294, § 3: Emergency clause failed. Emergency clause provided: "It is found and determined by the General Assembly that horse and greyhound racing and activities related thereto in Arkansas have a significant favorable impact on the economy of the entire state and the welfare of our citizens and residents; that competition from outside the State of Arkansas is having an adverse impact on the horse and greyhound racing industry in Arkansas; that other states have allowed horse and greyhound race tracks to conduct account wagering; that the State of Arkansas is presently losing tax revenues when wagers on horse and greyhound racing are placed by Arkansas citizens and residents outside the state or with illegal bookmakers; that these eco-

conomic conditions adversely affect the benefit to the State of Arkansas directly and indirectly accruing from horse and greyhound racing and related activities in Arkansas; that it is imperative that Arkansas franchise holders be able to increase purses, improve facilities and encourage patronage and tourism in order to keep up with competition and hold and improve Arkansas' premier and traditional position in horse and greyhound racing; and in order to accomplish these goals, essential to the welfare of the state and its citizens and residents, the amendments and provisions set forth in this act must be effective immediately.

Therefore, an emergency is hereby declared to exist, and this act, being immediately necessary for the preservation of the public peace, health and safety, shall take effect, and be in full force, immediately from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

Ark. L. Rev. Administrative License Revocation in Arkansas, 14 Ark. L. Rev. 139.

23-110-401. Accordance with license required.

(a) Any franchise holder or any person aiding or abetting in the holding or conducting of any horse racing meet at which horse racing shall be permitted for any stake, purse, or reward, except in accordance with a license duly issued as provided in this subchapter, shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment.

(b) For the purposes of this subchapter, each day of racing in violation of the provisions of this chapter shall be considered as a separate and distinct offense.

History. Acts 1957, No. 46, § 21; A.S.A. 1947, § 84-2747.

23-110-402. Number of racing days — Sunday racing — Approval of programs.

(a) The total racing days during any calendar year shall not exceed sixty-eight (68).

(b) A franchise holder shall apply for a license to conduct each racing meet and shall specify in the application for a license the racing days desired, which need not be consecutive.

(c)(1) The franchise holder shall not apply for, and the Arkansas Racing Commission shall not approve, racing on Sundays unless the question of Sunday racing shall have been submitted to the electors of the city or town in which racing is conducted or, if racing is not conducted within the corporate limits of a city or town, to the electors of

the county in which racing is conducted, at a special or any regular election and a majority of the electors voting on the question shall have approved Sunday racing at such election.

(2) The governing body of the city, town, or county, as the case may be, shall submit the question to the electors when requested by a franchise holder. The election shall be held and conducted under the general election laws of the state except as otherwise provided in this section.

(3) The ordinance shall set forth the ballot question as follows:

“For Sunday Racing☐

Against Sunday Racing☐

As authorized by § 23-110-402, the question presented is whether or not thoroughbred horse racing can be held on Sundays in _____ (city, town, or county). Vote for or against Sunday racing by marking the appropriate box above.”

(4) Notice of the election shall be given by the clerk of the city, town, or county involved by one (1) publication in a newspaper having general circulation within the city, town, or county involved not less than ten (10) days prior to the election. No other publication or posting of a notice by any other public official shall be required.

(5) The election shall be held no earlier than fifteen (15) days after the date of adoption of the ordinance in which the election is called by the legislative body.

(6) The mayor of the city or town or the county judge of the county, as the case may be, shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the city, town, or county involved. The results of the election as stated in the proclamation shall be conclusive unless suit is filed in the circuit court in the county within twenty (20) days after the date of the publication of the proclamation.

(7) If Sunday racing is approved, that approval shall continue in effect from year to year thereafter so long as racing at the location involved is authorized by Arkansas law.

(d) On application of the franchise holder, the commission may change the racing days in any license for a racing meet from those originally set forth in the license.

(e)(1) Prior to each racing meet, the franchise holder shall write and submit to the commission for approval the horse racing and wagering programs to be conducted at each racing meet which shall specify the conditions and provisions applicable to the requested racing and wagering programs, and the commission shall approve or disapprove, in whole or in part, the requested programs.

(2) If any portion of a submission is disapproved, the franchise holder may reapply prior to or at any time during the racing meet involved, but only those horse racing programs and wagering programs that are requested by the franchise holder and approved by the commission may be conducted at a racing meet.

History. Acts 1957, No. 46, § 17; 1961, No. 3, § 1; 1967, No. 130, § 5; 1979, No. 672, § 1; 1983, No. 251, §§ 1, 3; A.S.A. 1947, § 84-2743; Acts 1987, No. 440, § 2; 1989, No. 12, § 1.

Publisher's Notes. Acts 1987, No. 440, § 5, provided: "The purpose of this act is to put the franchise holder in a position to maintain and improve its high level of racing operations in the face of increasing and severe competition by distributing adequate purses and undertaking and completing substantial programs of construction, reconstruction, and maintenance of facilities. It is intended that the franchise holder shall proceed in reliance upon the provisions of this act to incur sufficient debt to undertake a program of construction, reconstruction, and maintenance of facilities in the immediate future and to proceed with it in an orderly manner. The franchise holder shall periodically keep the commission advised of the nature of and progress made concerning its programs of construction, reconstruction, and maintenance of facilities."

Acts 1987, No. 440, § 6, provided: "The

provisions of this act shall be effective as of January 1, 1987, and thereafter. To this end, the provisions of this act shall be applicable to the racing meet conducted in calendar year 1987 as though it had been in effect when that meet started except as to:

"(a) the increased amounts to be withheld on races where the wagerer is required to select more than one (1) horse; and

"(b) the amount over six percent (6%), being fifty-five hundredths of one percent (.55%), paid to the commission for the use and benefit of the State of Arkansas under the provisions of § 23-110-408(a) [repealed]. The increased and additional amounts specified in (a) and (b) above can be withheld only on races run after March 26, 1987. Also, all actions taken by the franchise holder, commission, and city, town, or county prior to and subsequent to the enactment of this act which are in accordance with the provisions of this act are hereby authorized, approved, and ratified."

23-110-403. Application for license to conduct meet — Issuance.

(a) Before any franchise holder shall conduct a racing meet in the county in which it holds a franchise, it shall file with the Arkansas Racing Commission an application to hold the meet and shall file the bond required by this chapter.

(b)(1) Each application shall be filed with the commission at least ninety (90) days prior to the date upon which it is desired to begin the racing meet.

(2) The application shall specify the dates on which it is intended or desired to conduct or hold the meet and further information as the commission may prescribe.

(3)(A) With the application there shall be delivered to the commission a certified check or bank draft payable to the order of the commission for the full amount of the license fee for each day of the racing meet.

(B)(i) The license fee required to be paid by the franchise holder under the provisions of this section shall be computed at the rate of five hundred dollars (\$500) per day.

(ii) The aggregate amount of the fee shall be based upon the total number of days which it is proposed that racing will be conducted at such a meet.

(C) The license fee imposed pursuant to this subdivision (b)(3) shall be in lieu of all other license or occupation fees or taxes which otherwise would be due by the franchise holder to the State of Arkansas or to any of its political subdivisions.

(c) Whenever mutually agreeable to the commission and the franchise holder, the commission may allot racing dates other than those requested in the application.

(d) Immediately following the allotting of any racing dates and the issuance of a license to hold a racing meet, the commission shall notify the franchise holder of the dates allotted. This notice shall be in writing and sent by registered United States mail to the franchise holder, and each notice and license shall be mailed by the commission at least sixty (60) days before the date fixed for the beginning of the racing meet.

(e)(1) Each license shall specify:

(A) The name of the franchise holder;

(B) The dates on which the racing meet shall be held or conducted;

(C) The location of the place, track, or enclosure at which such racing meet is to be conducted; and

(D) The amount of the license fee paid by the franchise holder.

(2) No license shall be transferable, nor shall it apply to any place, track, or enclosure other than the one specified in the license.

(f)(1) If the commission refuses an application for a license, it shall notify the franchise holder. This notice must be in writing and sent by registered United States mail to the franchise holder and shall be mailed by the commission at least sixty (60) days before the date fixed in the application for the beginning of the racing meet.

(2) In each instance the notice shall contain the reasons for refusal of the application.

(3) No application shall be refused until after the franchise holder has been granted a hearing by the commission.

History. Acts 1957, No. 46, § 18; A.S.A. 1947, § 84-2744; Acts 2001, No. 1553, § 55.

Amendments. The 2001 amendment substituted "commission" for "commissioner" in (b)(1).

23-110-404. License for horse owner, horse trainer, jockey, and jockey agent required.

Before participating in any horse racing meet:

(1) Each horse owner shall pay the Arkansas Racing Commission a license fee of twenty dollars (\$20.00);

(2) Each horse trainer shall pay the commission a license fee of fifteen dollars (\$15.00); and

(3) Each jockey and jockey agent shall pay the commission a license fee of fifteen dollars (\$15.00).

History. Acts 1957, No. 46, § 20; 1975, No. 352, § 1; A.S.A. 1947, § 84-2746.

23-110-405. Wagering — Penalty for improper wagering.

(a)(1) Any franchise holder conducting a horse racing meet may provide a place or places in the race meeting grounds or enclosure at

which it may conduct and supervise the pari-mutuel or certificate system of wagering.

(2) If conducted under the provisions of this chapter, the pari-mutuel or certificate method of wagering shall not under any circumstances be held or construed to be unlawful, all other laws or parts of laws of the State of Arkansas to the contrary notwithstanding.

(b)(1) With the prior approval of the Arkansas Racing Commission and consistent with applicable federal law, a franchise holder may enter into agreements and arrangements with other parties pursuant to which:

(A) Its patrons may wager on races run at other race tracks which are shown live or in any other manner approved by the commission, by television, or otherwise, at locations on the grounds at the Arkansas race track at any time or times during the calendar year; and

(B) Its races are shown live or in any other manner approved by the commission at other race tracks and locations.

(2) Such agreements and arrangements shall specify all financial, wagering, distribution, and other details which shall govern. To that end, the provisions of §§ 23-110-402 and 23-110-407 and any other inconsistent provisions shall not be applicable to such agreements and arrangements.

(3)(A) For all races simulcast to the grounds of the franchise holder's Arkansas race track from other race tracks and races conducted in the past and rebroadcast by electronic means and shown on a delayed or replayed basis on the grounds of the franchise holder's Arkansas race track under subdivision (b)(1) of this section, the franchise holder shall withhold and pay to the commission as a privilege tax for the use and benefit of the State of Arkansas one percent (1%) of all moneys wagered on the races on the grounds of the franchise holder's Arkansas race track.

(B) The difference between the two percent (2%) rate being withheld and so paid by the franchise holder to the State of Arkansas on wagers on the races described in subdivision (b)(3)(A) of this section under rules and regulations of the commission in effect prior to the enactment of this subdivision (b)(3) and the one percent (1%) rate established in subdivision (b)(3)(A) of this section, shall be withheld by the franchise holder from wagers on such races and set aside by the franchise holder in a separate account to be used only for purses and construction, for debt service on money borrowed by the franchise holder for construction, or for promotions to encourage patronage and tourism, in accordance with the provisions of § 23-110-407(a)(3).

(c) No franchise holder shall permit any person under eighteen (18) years of age to be a patron of the pari-mutuel or certificate system of wagering conducted or supervised by it.

(d)(1)(A) However, nothing contained in this section shall be construed to permit the pari-mutuel or certificate method of wagering

upon any race track unless the track is licensed as provided by this chapter.

(B) It is declared to be unlawful for any franchise holder to permit, conduct, or supervise upon any race track any pari-mutuel or certificate method of wagering except in accordance with the provisions of this chapter.

(2)(A) There shall be no wagering on the results of any races except under the pari-mutuel or certificate method of wagering as provided for in this section, and then only by the installation and use of equipment approved by the commission.

(B) Any franchise holder or any person wagering under any other method at a licensed race track shall be guilty of a felony and, upon conviction, shall be punished for each offense by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) and imprisonment for not less than one (1) year nor more than five (5) years.

History. Acts 1957, No. 46, § 22; A.S.A. 1947, § 84-2748; Acts 1987, No. 440, § 3; 1989, No. 12, § 2; 1999, No. 10, § 1; 2001, No. 1294, § 2.

Publisher's Notes. As to purpose and applicability of Acts 1987, No. 440, see Publisher's Notes, § 23-110-402.

Amendments. The 1999 amendment redesignated the former first and second sentences of (b) as present (b)(1) and (2), respectively; and substituted "Arkansas Racing Commission" for "commission" and

inserted "or in any other manner approved by the commission" following "are shown live" twice in present (b)(1).

The 2001 amendment redesignated former (b)(1) as present (b)(1) through (b)(1)(B) and made related changes; deleted "agreements and arrangements whereby" preceding "its races are shown" in (b)(1)(B); and added (b)(3).

Cross References. Wagering on dog races, § 23-111-508.

CASE NOTES

ANALYSIS

Constitutionality.
Illegal transactions.

Constitutionality.

Former similar act legalizing pari-mutuel betting on horse races was not unconstitutional on the ground of being a lottery as element of chance, though present, was not controlling; the condition, speed, and endurance of the horses aided by the skill and management of the rider or driver was the determining factor of the result of the race. *Longstreth v. Cook*, 215 Ark. 72, 220 S.W.2d 433 (1949) (decision under prior law).

Illegal Transactions.

A telegraph company was not liable for negligence in failure to transmit telegram which related to tip on race outside the state, the illegality of the transaction not being removed by former similar section. *Western Union Tel. Co. v. Estes*, 213 Ark. 719, 212 S.W.2d 333 (1948) (decision under prior law).

Cited: *Register v. Oaklawn Jockey Club, Inc.*, 306 Ark. 318, 811 S.W.2d 315 (1991); *In re Armstrong*, 217 Bankr. 569 (Bankr. E.D. Ark. 1998).

23-110-406. Disposition of wagering money — Payment to winning bettors required — Exceptions.

(a) Excepting only the moneys retained for the use and benefit of the franchise holder, the amounts paid to the Arkansas Racing Commission

for the use and benefit of the State of Arkansas, the amount paid to the commission for deposit in the Arkansas Racing Commission Purse and Awards Fund, and the amount paid to a city, town, or county as provided in this subchapter, all moneys received by the franchise holder from wagers pursuant to this subchapter shall be paid over to bettors holding winning pari-mutuel tickets in accordance with the provisions and at the times specified in the various race programs written by the franchise holder for the racing meet, as their respective interests may appear, upon presentation of those tickets.

(b) However, all winning pari-mutuel tickets not presented to the franchise holder for redemption on or before the one hundred eightieth day next following the last racing day of each racing meet hereafter held shall be void. Of the moneys represented by void pari-mutuel tickets, the franchise holder shall forthwith distribute the proceeds as follows:

(1) One-third ($\frac{1}{3}$) of the amount thereof shall be retained by the franchise holder for its own use and benefit;

(2) One-third ($\frac{1}{3}$) of the amount thereof shall be paid to the commission for deposit in the State Treasury as general revenues; and

(3) One-third ($\frac{1}{3}$) of the amount thereof shall be paid to the treasurer of the county in which the racing track is located for credit to the general fund of the county.

History. Acts 1957, No. 46, § 23; 1965, No. 142, § 1; 1967, No. 130, § 3; 1973, No. 780, § 1; 1983, No. 251, §§ 2, 3; 1985 (1st Ex. Sess.), No. 27, §§ 2, 3; 1985 (1st Ex. Sess.), No. 36, § 2; A.S.A. 1947, § 84-2749.

Publisher's Notes. Acts 1973, No. 780,

§ 4, provided that it was the purpose and intent of the act to classify the revenues received by the state from the pari-mutuel tax on horse and dog racing and those represented by void pari-mutuel tickets on horse and dog racing as general revenues.

CASE NOTES

ANALYSIS

Constitutionality.

In general.

Applicability.

Duty of ordinary care.

Constitutionality.

This section does not violate the Arkansas Constitution's prohibitions of the impairment of contractual obligations, government taking of property without notice or hearing, or of the enactment of special legislation. *Mahurin v. Oaklawn Jockey Club*, 299 Ark. 13, 771 S.W.2d 19 (1989).

In General.

The preclusion of recovery under this section is, or is the same as, a statute of limitation, and its effect is not adjudica-

tory but legislative. *Mahurin v. Oaklawn Jockey Club*, 299 Ark. 13, 771 S.W.2d 19 (1989).

Applicability.

The applicability of this section does not require a ticket holder's notification of the escheat and limitation provisions of this section. *Mahurin v. Oaklawn Jockey Club*, 299 Ark. 13, 771 S.W.2d 19 (1989).

Duty of Ordinary Care.

Racetrack owed a duty to exercise ordinary care to patron who placed what turned out to be a winning bet but machine failed to issue a conforming ticket. *Register v. Oaklawn Jockey Club, Inc.*, 306 Ark. 318, 811 S.W.2d 315 (1991), modified on reh'g, 306 Ark. 321, 821 S.W.2d 475 (1991).

Cited: Evans v. Arkansas Racing Comm'n, 270 Ark. 788, 606 S.W.2d 578 (1980).

23-110-407. Disposition of wagering money — Portion for franchise holder.

(a)(1) At the racing meet held in calendar year 1989 and at the racing meet held in each calendar year thereafter, the franchise holder shall withhold not more than seventeen percent (17%) and not less than five and one-half percent (5.5%) of all moneys wagered on races in which the wagerer is required to select one (1) horse and not more than twenty-one percent (21%) and not less than five and one-half percent (5.5%) of all moneys wagered on races in which the wagerer is required to select more than one (1) horse. Within those limits, the exact amounts to be withheld shall be specified in the wagering program requested by the franchise holder and approved by the Arkansas Racing Commission as specified in § 23-110-402.

(2) From the amounts withheld pursuant to the provisions of subdivision (a)(1) of this section, the franchise holder shall pay the following:

(A)(i) At all racing meets conducted in calendar years 1989 — 2001, an amount equal to two and one-half percent (2.5%) of all moneys wagered on all races shall be paid to the commission as a privilege tax for the use and benefit of the State of Arkansas.

(ii) At all racing meets conducted in calendar year 2002 and in each calendar year thereafter, an amount equal to one percent (1%) of all moneys wagered on all races shall be paid to the commission as a privilege tax for the use and benefit of the State of Arkansas; and

(B)(i) In the case of all racing meets for thoroughbred horses, an amount equal to one-half of one percent (0.5%) of all moneys wagered shall be paid to the commission for deposit in the Arkansas Racing Commission Purse and Awards Fund to be used for purse supplements, breeders' awards, owners' awards, and stallion awards as hereinafter specified.

(ii) The number of Arkansas-bred races shall be a matter for negotiation between the franchise holder and the Arkansas Thoroughbred Breeders and Horsemen's Association.

(3) The remainder of the amounts withheld pursuant to the provisions of subdivision (a)(1) of this section shall be retained by the franchise holder for use as follows:

(A)(i) For all racing meets:

(a) In calendar years 1989 — 2001, three percent (3%) of all moneys wagered on races in which the wagerer is required to select one (1) horse, and two percent (2%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse, i.e., the purse, construction, and patronage and tourism promotion moneys; and

(b) In calendar year 2002 and in each calendar year thereafter, four and one-half percent (4.5%) of all moneys wagered on races in

which the wagerer is required to select one (1) horse, and three and one-half percent (3.5%) of all moneys wagered on races in which the wagerer is required to select more than one (1) horse, i.e., the purse, construction, and patronage and tourism promotion moneys, shall be set aside by the franchise holder in a separate account to be used only for purses and construction, for debt service on money borrowed by the franchise holder for construction, or for promotions to encourage patronage and tourism.

(ii)(a) As used in this section, the term "construction":

(1) Shall include all items and expenditures incurred in keeping the overall racing facility in the best possible condition for the patrons, horsemen, and franchise holder, including, without limitation, land acquisition, provided that the franchise holder submits plans for utilizing the acquired land for an approved purpose within five (5) years of the acquisition, new construction with related equipment, and reconstruction, renovation, reconditioning, and repairing of facilities with related equipment;

(2) Shall not include ordinary or routine maintenance of the overall racing facility and shall not include the construction or improvement of areas of the racing facility not generally accessible by, or used for the benefit of, either the horsemen or patrons, or both; and

(3) Shall not apply to office furniture, office telephones, or other office equipment primarily devoted to the use of the franchise holder and providing little or no benefit to either horsemen or patrons, or both.

(b) The franchise holder may be reimbursed only for construction and patronage and tourism promotion expenditures from the purse, construction, and patronage and tourism promotion fund after submitting a claim that itemizes each expenditure listing the specific expenditure and the payee of the expenditure and stating in specific terms with respect to construction expenditures how the expenditure jointly benefits the patrons, horsemen, and franchise holder.

(iii)(a) The commission shall have jurisdiction and shall seek the assistance of the Department of Finance and Administration to check and verify compliance by the franchise holder with the provisions of this subdivision (a)(3). The commission shall make periodic determinations as to compliance under such rules and regulations as the commission shall adopt.

(b) The franchise holder must deliver to the department any documents reasonably requested to check and verify compliance with this subdivision (a)(3), within thirty (30) days of receiving a written request for the documents. If the department does not receive the requested documents within the time period provided, the Director of the Department of Finance and Administration shall notify the commission, and no reimbursement shall be approved from the fund until the documents are delivered.

(c) In the case of construction and patronage and tourism promotion, the commission may use a multiyear approach based on a

multiyear program being undertaken by the franchise holder so that accountability for expenditures may be based on expenditures made during the entire multiyear period out of the purse, construction, and patronage and tourism promotion moneys derived during the multiyear period, provided that the multiyear period shall not exceed five (5) years, unless the commission makes a specific determination that a longer period is necessary to finance long-term construction projects for the joint benefit of patrons, horsemen, and the franchise holder.

(d) The franchise holder may seek prior approval from the commission for expenditures. The application for the approval must contain the information required by subdivision (a)(3)(A)(ii)(b) of this section. The initial approval will be subject to a final approval by the commission that the expenditures were made for the approved purposes in compliance with the requirements of this subdivision (a)(3), and the commission shall seek assistance from the department to verify that the expenditures were made for the approved purposes.

(e) If there is a final determination that any of the purse, construction, and patronage and tourism promotion moneys have not been used for the purposes specified in this subdivision (a)(3), the franchise holder shall pay the amount equal to any moneys used for an unauthorized purpose to the commission for the use and benefit of the State of Arkansas.

(iv)(a) The purse, construction, and patronage and tourism promotion moneys shall not be subject to the provisions of any contract or agreement between the franchise holder and any organization representing horsemen. To that end, any contractual obligations for the use of moneys for purses shall not apply to any expenditures for construction or patronage and tourism promotion out of the purse, construction, and patronage and tourism promotion moneys.

(b) Any expenditures for purses out of the purse, construction, and patronage and tourism promotion moneys shall be in addition to contractual purse obligations affecting moneys other than the purse, construction, and patronage and tourism promotion moneys.

(c) The franchise holder shall determine the amount of the purse, construction, and patronage and tourism promotion moneys to be used for the authorized purposes, except that at least one-half ($\frac{1}{2}$) of the purse, construction, and patronage and tourism promotion moneys must be used for purses;

(v) If the amount of approved expenditures exceeds the balance of the purse, construction, and patronage and tourism promotion fund, the excess amount will remain payable to the franchise holder out of the purse, construction, and patronage and tourism promotion fund. However, with respect to expenditures incurred by the franchise holder on or after January 1, 2001, interest shall not accrue on the deficit balance, unless the interest is payable to an unrelated third-party lender with respect to indebtedness directly incurred to finance construction expenditures as contemplated by this subdivision (a)(3);

(B) The remainder of the amounts withheld pursuant to the provisions of subdivision (a)(1) of this section shall be retained by the franchise holder for its own use and benefit; and

(C) One percent (1%) of the moneys set aside by the franchise holder for purses from the moneys retained by it pursuant to the provisions of subdivision (a)(3) of this section, including that portion of the purse, construction, and patronage and tourism promotion moneys actually used for purses, shall be paid from the moneys set aside for purses to the Arkansas Horsemen's Benevolent and Protective Association to be used for its benevolent purposes. The payment shall be made by the franchise holder at the conclusion of each racing meet.

(b) All payments to the commission under subdivision (a)(2)(B) of this section and all payments to a city or town and a county shall be made by the franchise holder at the conclusion of the racing meet involved. Such payments to a city or town and a county shall be used by the city, town, or county for such lawful purposes as the city, town, or county shall determine. All payments due the State of Arkansas under subdivision (a)(2)(A) of this section shall be paid to the commission daily.

History. Acts 1957, No. 46, § 23; 1965, No. 142, § 1; 1967, No. 130, § 3; 1983, No. 251, §§ 2, 3; A.S.A. 1947, § 84-2749; Acts 1987, No. 440, § 4; 1989, No. 12, § 3; 1999, No. 1576, § 1; 2001, No. 1294, § 1.

Publisher's Notes. As to purpose and applicability of Acts 1987, No. 440, see Publisher's Notes, § 23-110-402.

Acts 1987, No. 440, § 4, provided, in part: "At the racing meet conducted in calendar year 1987, the franchise holder shall withhold and retain for its own use and benefit ten percent (10%) of all moneys wagered on races where the wagerer is

required to select one (1) horse and fourteen percent (14%) of all moneys wagered on races where the wagerer is required to select more than one (1) horse."

Amendments. The 1999 amendment inserted "and patronage and tourism promotion" throughout (a)(3)(A) and in (a)(3)(C); inserted "or for promotions to encourage patronage and tourism" in (a)(3)(A)(i); and made minor stylistic changes.

The 2001 amendment rewrote this section.

CASE NOTES

Cited: *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980).

23-110-408. [Repealed.]

Publisher's Notes. This section, concerning disposition of wagering money — payments to Arkansas racing commission, was repealed by Acts 1989, No. 12, § 5.

The section was derived from Acts 1957, No. 46, § 23; 1965, No. 142, § 1; 1967, No. 130, § 3; 1983, No. 251, §§ 2, 3; A.S.A. 1947, § 84-2749; Acts 1987, No. 440, § 4.

23-110-409. Disposition of wagering money — Arkansas Racing Commission Purse and Awards Fund.

(a) The Arkansas Racing Commission Purse and Awards Fund shall be deposited by the Arkansas Racing Commission in such banks as the commission shall determine.

(b)(1) In order to promote and encourage the development of thoroughbred horse breeding in Arkansas with its attendant economic benefits to the state and its citizens, moneys in the Arkansas Racing Commission Purse and Awards Fund are classified as special revenues and shall be disbursed by the commission for purse supplements and breeders' awards in accordance with a written program prepared and presented to it by the Arkansas Thoroughbred Breeders and Horsemen's Association.

(2) Breeders' awards may include awards to owners of registered Arkansas-bred thoroughbred horses, owners of registered Arkansas thoroughbred broodmares, and owners of registered Arkansas thoroughbred stallions.

(3) Registered Arkansas-bred thoroughbred horses, registered Arkansas thoroughbred broodmare, registered Arkansas thoroughbred stallion, foal registration, broodmare registration and stallion registration, eligibility to participate in the Arkansas Racing Commission Purse and Awards Fund and eligibility to participate in races that are restricted to registered Arkansas-bred thoroughbred horses shall be determined and made in accordance with registration rules and regulations, including reasonable time deadlines and fee schedules, adopted by the Arkansas Thoroughbred Breeders and Horsemen's Association and approved by the commission.

(c) The franchise holder shall be solely responsible for writing the various races for each racing meet.

History. Acts 1957, No. 46, § 23; 1967, 1947, § 84-2749; Acts 1988 (3rd Ex. No. 130, § 3; 1983, No. 251, §§ 2, 3; A.S.A. Sess.), No. 14, § 1; 1989, No. 12, § 4.

CASE NOTES

Cited: *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980).

23-110-410. Disposition of wagering money — Breaks.

(a)(1) Breaks shall be computed on the basis of ten cents (10¢) on the dollar, and the odd cents or breaks are classified as special thoroughbred horse racing fees to be deposited and used as provided in this section.

(2) Provided, in the event of a minus pool, the Arkansas Racing Commission shall have the authority to establish the minimum payout on winning wagers.

(b) During the first racing meet in any calendar year, the franchise holder shall withhold and pay the breaks to the following recipients for the purposes specified in this subsection:

(1) Forty-eight and twenty-five hundredths percent (48.25%) of the breaks shall be paid to the city or town in which the racing meet is conducted, or, if the racing meet is not conducted within the corporate limits of a city or town, then forty-eight and twenty-five hundredths percent (48.25%) of the breaks shall be paid to the county in which the racing meet is conducted;

(2) Eleven and seventy-five hundredths percent (11.75%) of the breaks shall be paid to the county in which the racing meet is conducted, whether or not the racing meet is conducted within the corporate limits of a city or town in the county; and

(3) The remaining forty percent (40%) of the breaks shall be withheld and retained by the franchise holder for its own use and benefit.

(c) During the second and any subsequent racing meet in any calendar year, the franchise holder shall withhold and pay the breaks to the following recipients for the purposes specified in this subsection:

(1) Twenty-four and one hundred twenty-five thousandths percent (24.125%) of the breaks shall be paid to the city or town in which any racing meet is conducted, or, if the racing meet is not conducted within the corporate limits of a city or town, then twenty-four and one hundred twenty-five thousandths percent (24.125%) of the breaks shall be paid to the county in which the racing meet is conducted;

(2) Five and eight hundred seventy-five thousandths percent (5.875%) of the breaks shall be paid to the county in which the racing meet is conducted, whether or not the racing meet is conducted within the corporate limits of a city or town in the county;

(3) Thirty percent (30%) of the breaks shall be paid to the State of Arkansas; and

(4) The remaining forty percent (40%) of the breaks shall be withheld and retained by the franchise holder for its own use and benefit.

History. Acts 1957, No. 46, § 23; 1967, No. 130, § 3; 1979, No. 733, § 1; 1983, No. 251, §§ 2, 3; A.S.A. 1947, § 84-2749; Acts 1987, No. 440, § 4; 1999, No. 10, § 2.

applicability of Acts 1987, No. 440, see Publisher's Notes, § 23-110-402.

Amendments. The 1999 amendment rewrote (a).

Publisher's Notes. As to purpose and

CASE NOTES

Cited: *Evans v. Arkansas Racing Comm'n*, 270 Ark. 788, 606 S.W.2d 578 (1980).

23-110-411. Admission tax.

(a) Each franchise holder authorized to conduct a race meet under this chapter shall pay to the Arkansas Racing Commission, for the use and benefit of the State of Arkansas, either ten percent (10%) of all

moneys received each day from admissions paid by persons attending the races at the meeting or the sum of ten cents (10¢) on each and every paid admission, whichever sum is the greater. All payments provided for in this section shall be made each day of any and every race meeting.

(b)(1) The issuance of all tax-free passes shall be by the franchise holder or its employees or agents. The commission shall have no authority over the issuance or distribution of such passes.

(2) It shall be unlawful for any person, corporation, firm, partnership, or any other entity, to sell or offer for sale, for any consideration, any tax-free pass issued by the commission for general admission to the racing facility of any franchise holder.

(3) Any person, corporation, firm, partnership, or other entity, who sells or offers for sale tax-free passes shall, upon conviction, be guilty of a Class B misdemeanor. The penalty for each such offense shall be a fine in an amount not to exceed five hundred dollars (\$500) or imprisonment for a period of time not to exceed ninety (90) days, or both.

History. Acts 1957, No. 46, § 24; A.S.A. 1947, § 84-2750; Acts 1991, No. 664, § 1; 1991, No. 1020, § 1; 1999, No. 1508, §§ 7, 10.

Amendments. The 1999 amendment repealed the version of this section as amended by Acts 1991, No. 664; and rewrote (b)(1).

23-110-412. Record keeping by franchise holder — Audit.

(a) Every franchise holder conducting race meets under this chapter shall keep its books and records so as to clearly show the true number of admissions, the total amount of money contributed to each pari-mutuel pool on each race separately, and the amount of money received daily from admission fees.

(b) Within thirty (30) days after the conclusion of every race meeting, the franchise holder shall submit to the Arkansas Racing Commission a complete audit of receipts and admissions.

(c) Each franchise holder conducting a racing meet under the provisions of this chapter shall keep its books and records in such manner as to clearly show the total amount of moneys wagered on each race held or conducted at each meet and the disposition of those moneys.

History. Acts 1957, No. 46, §§ 23, 25; A.S.A. 1947, §§ 84-2749, 84-2751; Acts 1987, No. 440, § 4.

Publisher's Notes. As to purpose and applicability of Acts 1987, No. 440, see Publisher's Notes, § 23-110-402.

23-110-413. Access to meets, books, records, etc.

(a) The Arkansas Racing Commission shall at all times have access to any portion of the space or enclosure where a race meet is held, including the space or enclosure where the pari-mutuel or certificate system of wagering is conducted or supervised at any racing meet, for the purpose of ascertaining whether or not the franchise holder is retaining only the commission provided in this chapter.

(b) The commission shall have full and free access to the books, records, machines, and papers pertaining to pari-mutuel or certificate method of wagering, and admission tickets.

(c) The commission may also at any time investigate and ascertain whether or not any of the provisions of this chapter or the rules and regulations of the commission are being violated at the race track or enclosure.

History. Acts 1957, No. 46, § 27;
A.S.A. 1947, § 84-2753.

23-110-414. Franchise holder required to give bond.

Every franchise holder to which a license may be granted under this chapter at its own cost and expense shall, before the license is delivered, give a bond in the penal sum of fifty thousand dollars (\$50,000), payable to the Arkansas Racing Commission, with a surety to be approved by the commission, conditioned to faithfully make the payments to the commission provided for in this chapter and to keep its books and records and make reports herein provided and to conduct its race meets in conformity with the provisions of this chapter.

History. Acts 1957, No. 46, § 26;
A.S.A. 1947, § 84-2752.

23-110-415. Failure to pay tax.

(a) Any franchise holder failing or refusing to pay the amount found to be due the Arkansas Racing Commission from any tax provided for or imposed by this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five thousand dollars (\$5,000), in addition to the amount due from the franchise holder as provided in this chapter.

(b) All fines paid into any court of this state by a franchise holder found guilty of violating this section shall be paid over by the clerk of the court to the commission within ten (10) days after it has been paid to the clerk by the franchise holder.

History. Acts 1957, No. 46, § 26;
A.S.A. 1947, § 84-2752.

CHAPTER 111

ARKANSAS GREYHOUND RACING LAW

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS RACING COMMISSION.
3. FRANCHISES GENERALLY.
4. OFFICERS, DIRECTORS, STOCKHOLDERS, ETC., OF FRANCHISES.
5. CONDUCT OF MEETS.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-4 and §§ 23-111-501 — 23-111-514 may not apply to

§§ 23-111-515 — 23-111-517 which were enacted subsequently.

RESEARCH REFERENCES

ALR. Judicial review of administrative ruling affecting conduct or outcome of publicly regulated horse, dog, or motor vehicle race. 36 ALR 4th 1169.

Am. Jur. 38 Am. Jur. 2d, Gambling, §§ 56-58.

C.J.S. 38 C.J.S., Gaming, § 8.

CASE NOTES

Constitutionality.

Former similar act did not violate Ark. Const., Art. 19, § 14 prohibiting lotteries, since betting upon greyhound races afforded opportunity for exercise of judgment and was not completely controlled by chance as is a lottery. *Scott v. Dunaway*,

228 Ark. 943, 311 S.W.2d 305 (1958) (decision under prior law).

Cited: *Glover v. Hot Springs Kennel Club, Inc.*, 230 Ark. 544, 323 S.W.2d 902 (1959); *Parker v. Priest*, 326 Ark. 123, 930 S.W.2d 322 (1996); *In re Armstrong*, 217 Bankr. 569 (Bankr. E.D. Ark. 1998).

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-111-101. Title.

23-111-102. Applicability.

23-111-103. Inconsistent statutes inapplicable.

SECTION.

23-111-104. Disposition of funds.

23-111-105. Racing passes.

Effective Dates. Acts 1957, No. 191, § 30: July 1, 1957.

Acts 1991, No. 1117, § 12: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of the Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Acts 1993, No. 341, § 11: July 1, 1993. Emergency clause provided: “It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1995, No. 7, § 12: July 1, 1995. Emergency Clause provided: “It is hereby

found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 73, § 12: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 2001, No. 408, § 2: became law without Governor's signature Feb. 23, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that the distribution of dog racing passes by members of the General Assembly and constitutional officers results in a statewide distribution of those passes and because of the racial diversity of the membership of the General Assembly, it also further assures that the passes will be distributed in a racially diverse manner; that the General Assembly has great interest in promoting and nourishing tourism within the state and its distribution of passes to out-of-state persons will further the objective of the state to encourage tourism and profit thereby; that this act makes clear that members of the General Assembly and constitutional officers are merely conduits to accomplish the stated purposes of issuance of racing passes and that the passes do not constitute gifts or compensation to the membership of the General Assembly or constitutional officers; and unless this emergency clause is adopted, this act may not go into effect until after the current racing season. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-111-101. Title.

This chapter shall be referred to and may be cited as the "Arkansas Greyhound Racing Law".

History. Acts 1957, No. 191, § 1; A.S.A. 1947, § 84-2816.

23-111-102. Applicability.

Nothing contained in this chapter shall in any way be construed to apply to any other method or manner of racing except the racing of greyhounds as provided in this chapter.

History. Acts 1957, No. 191, § 25;
A.S.A. 1947, § 84-2840.

23-111-103. Inconsistent statutes inapplicable.

All other acts and parts of acts inconsistent with any of the provisions of this chapter are expressly declared not to apply to any person, partnership, group, association, trust, or corporation engaged or participating in racing or making or contributing to the pari-mutuel or certificate method of wagering in manner and form as provided for by this chapter at any race meeting held or conducted by any franchise holder having a license for the holding or conducting of the race meetings as provided by this chapter.

History. Acts 1957, No. 191, § 26;
A.S.A. 1947, § 84-2841.

23-111-104. Disposition of funds.

(a) All franchise or license fees, excise or privilege taxes, penalties, fines, costs, and other amounts received by the Arkansas Racing Commission under the provisions of this chapter shall be general revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund.

(b) The Treasurer of State shall allocate and transfer the money to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by, and to be used for the respective purposes set forth in, the Revenue Stabilization Law, § 19-5-101 et seq.

History. Acts 1957, No. 191, § 27;
A.S.A. 1947, § 84-2842.

CASE NOTES

Cited: Arkansas Racing Comm'n v. Hot Springs Kennel Club, Inc., 232 Ark. 504, 339 S.W.2d 126 (1960).

23-111-105. Racing passes.

(a) The Director of the Department of Finance and Administration shall set a maximum number of racing passes to be printed and issued annually, and it shall not be fewer than the number printed in 1990.

(b)(1) Racing passes provided to and accepted by members of the General Assembly and constitutional officers are to be distributed by them to their constituents in order to provide for a statewide distribution of the racing passes and to persons residing outside the State of Arkansas in order to promote tourism and advance the economic interests of the state.

(2) The passes provided to the members of the General Assembly and constitutional officers are not for their personal use but are for

redistribution as provided in this section and, therefore, do not constitute gifts or compensation to members of the General Assembly and constitutional officers for the purposes of any law of this state.

(3) This section does not prohibit members of the General Assembly and constitutional officers from redistributing racing passes to other members of the General Assembly or other state constitutional officers.

History. Acts 1991, No. 1117, § 5; 1993, No. 341, § 5; 1995, No. 7, § 6; 1997, No. 73, § 6; 2001, No. 408, § 1.

A.C.R.C. Notes. Acts 2003, No. 943, § 5, provided: “RACING PASS RESTRICTIONS. The Director of the Department of Finance and Administration shall set a maximum number of racing passes to be printed and issued annually and it shall not be less than the number printed in

1990. The provisions of this section shall be in effect only from July 1, 2003 through June 30, 2005.”

Publisher’s Notes. Acts 1991, No. 1117, § 5, as amended, is also codified as § 23-110-105.

Amendments. The 2001 amendment designated the former section as present (a); substituted “fewer” for “less” in (a); and added (b).

SUBCHAPTER 2 — ARKANSAS RACING COMMISSION

SECTION.

- 23-111-201. Jurisdiction of Arkansas Racing Commission.
- 23-111-202. Membership.
- 23-111-203. Powers and duties generally.

SECTION.

- 23-111-204. Regulatory authority — Limitations.
- 23-111-205. Hearings.

Effective Dates. Acts 1957, No. 191, § 30: July 1, 1957.

23-111-201. Jurisdiction of Arkansas Racing Commission.

(a) All references to “commission” in this chapter mean the Arkansas Racing Commission or its successor having jurisdiction over thoroughbred horse racing in this state.

(b) In addition to all other duties, powers, and responsibilities conferred upon it by other laws of this state, the commission shall exercise duties, powers, and responsibilities over greyhound racing as authorized in this chapter.

History. Acts 1957, No. 191, § 2; A.S.A. 1947, § 84-2817.

Cross References. Arkansas Racing Commission, § 23-110-201 et seq.

23-111-202. Membership.

No person who is officially connected with, employed by, financially interested in, or related within the third degree of consanguinity or affinity to any officer or stockholder of an applicant for, or any officer or stockholder of a holder of, a franchise applied for or issued under or pursuant to the provisions of this chapter shall be eligible to serve as a

member of the Arkansas Racing Commission having authority to administer this chapter.

History. Acts 1957, No. 191, § 3;
A.S.A. 1947, § 84-2818.

23-111-203. Powers and duties generally.

(a) Subject to the limitations and conditions as in this chapter or other applicable law provided, the Arkansas Racing Commission shall have sole jurisdiction over the business and the sport of greyhound racing in the state where the racing is permitted for any stake, purse, or reward.

(b) In exercising the jurisdiction as provided in subsection (a) of this section, but without necessarily being limited to the following, it shall be the function, power, and duty of the commission to:

- (1) Grant franchises to conduct greyhound races;
- (2) Approve dates for each racing meet and issue permits therefor;
- (3) Issue licenses to greyhound owners and greyhound trainers;
- (4) Collect and deposit in the State Treasury all fees for franchises and licenses, all taxes and other imposts, and all other moneys due the State of Arkansas in relation to greyhound racing;
- (5) Hear and determine all matters properly coming before the commission and grant rehearings thereon; and
- (6) Take such other action, not inconsistent with law, as it may deem necessary or desirable to supervise and regulate and to effectively control in the public interest greyhound racing in the State of Arkansas.

History. Acts 1957, No. 191, § 4;
A.S.A. 1947, § 84-2819.

CASE NOTES

In General.

This section defines the power and duty of the commission. Arkansas Racing

Comm'n v. Hot Springs Kennel Club, Inc.,
232 Ark. 504, 339 S.W.2d 126 (1960).

23-111-204. Regulatory authority — Limitations.

(a) The Arkansas Racing Commission shall have full, complete, and sole power and authority to promulgate rules, regulations, and orders and prescribe conditions under which greyhound racing shall be conducted by a franchise holder, but the power and authority so granted shall be exercised by the commission in a reasonable manner. The holder of any franchise, or any taxpayer, shall have redress to the Pulaski County Circuit Court for any wrong committed by the commission in the exercise of the power and authority granted pursuant to this section.

(b)(1) The commission shall have no right or power to determine who shall be officers or employees of any franchise holder.

(2) However, the commission may by rule require that all officers and employees, or agents, of the franchise holder who are in charge of, or whose duties relate directly to, the running of races, and the handling of any funds which may be wagered on any race, be approved by the commission.

(3) The commission may compel the discharge of any official, employee, or agent of the franchise holder who fails or refuses to comply with the rules, regulations, or orders of the commission or who, in the opinion of the commission, is guilty of fraud or dishonesty.

History. Acts 1957, No. 191, § 12;
A.S.A. 1947, § 84-2827.

CASE NOTES

Cited: Arkansas Racing Comm'n v. Corp., 337 Ark. 380, 989 S.W.2d 505 Emprise Corp., 254 Ark. 975, 497 S.W.2d (1999).
34 (1973); Woodend v. Southland Racing

23-111-205. Hearings.

(a)(1) In the event any franchise holder or person is aggrieved by any action of the Arkansas Racing Commission, he or she shall be entitled to a hearing by the commission.

(2) The hearing shall be held at such place in the State of Arkansas and at such time as the commission may designate. Notice shall be served on the party affected by mailing the notice of the time and place that the hearing will be held by registered or certified United States mail to the party affected.

(3) In conducting the hearing, the commission shall not be bound by technical rules of evidence.

(4) Any party affected in the hearing may be represented by counsel and shall have the right to introduce evidence, and the commission may in its discretion likewise be represented by counsel at the hearing. The counsel shall participate in the conduct of the hearing for and on behalf of the commission.

(b)(1) For purposes of conducting a hearing, the commission shall have the power to administer oaths, issue subpoenas, and compel the attendance and testimony of witnesses.

(2) Any person who has been served with a subpoena to appear and testify issued by the commission in the course of an inquiry or hearing conducted under the provision of this chapter and who shall refuse and neglect to appear or testify relative to the hearing as commanded in the subpoena shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500).

(3) In connection with any hearing, the commission or the aggrieved may cause the deposition of witnesses within or without the state to be taken in the manner prescribed by existing statutes for the taking of depositions in this state.

(c) All hearings shall be held before at least three (3) members of the commission, and the concurrence of at least three (3) members of the commission shall be necessary for any finding or order.

(d) At the conclusion of the hearing, the commission shall make its findings to be the basis for the action taken by the commission. The findings and order shall be subject to review in the Pulaski County Circuit Court, from which an appeal may be taken to the Arkansas Supreme Court.

History. Acts 1957, No. 191, § 15; 1965, No. 176, § 4; A.S.A. 1947, § 84-2830.

SUBCHAPTER 3 — FRANCHISES GENERALLY

SECTION.

- 23-111-301. Greyhound racing permitted — Limitations.
- 23-111-302. Application generally — Issuance of temporary franchise — Hearing and appeal.
- 23-111-303. Approval of electors required.
- 23-111-304. Elections.

SECTION.

- 23-111-305. Construction of racing plant — Issuance of permanent franchise.
- 23-111-306. Subsequent referendum elections.
- 23-111-307. Franchises granted prior to July 1, 1957.
- 23-111-308. Employees and patrons.

Effective Dates. Acts 1957, No. 191, § 30: July 1, 1957.

Acts 1965 (2nd Ex. Sess.), No. 7, § 6: Nov. 6, 1965. Emergency clause provided: "The General Assembly has determined that: (1) the approval of pari-mutuel wagering on greyhound racing in any county in this State is a matter of vital concern to the people of the entire State, (2) improvements already completed and now being made in means and methods of communication and transportation (particularly in the State and Interstate Highway Systems) render it impossible to confine the economic impact of such wagering to a

single county, and (3) an election has been called to submit the question of pari-mutuel wagering on greyhound racing in Garland County to the electors of that county on November 23, 1965. Therefore, the General Assembly finds and declares that because of the vital concern of the people of the entire State in the matter of pari-mutuel wagering on greyhound racing an emergency exists and that this act, being necessary for the preservation of the public peace, health and safety shall be in full force and effect on and after its passage and approval."

23-111-301. Greyhound racing permitted — Limitations.

(a)(1) Greyhound racing may be conducted in all political subdivisions of the State of Arkansas, but only by the holder of a franchise granted by the Arkansas Racing Commission, and the commission may grant a franchise only to a corporation organized under the laws of this state.

(2) Franchises may not be granted by the commission to individuals, partnerships, associations, trusts, or to any others except corporations as provided in this section.

(b)(1) However, in the event that the limitations contained in subsection (a) of this section are declared unconstitutional, then the commission may grant franchises to individuals, partnerships, associations, trusts, and corporations.

(2) Wherever the word "corporation" shall appear in this chapter, it shall be deemed to include the enumeration in subdivision (b)(1) of this section in the event of the declaration of unconstitutionality.

(c) The commission may not grant more than one (1) franchise for conducting greyhound racing meets in a single county.

(d) No franchise or temporary franchise shall be granted whenever the cost of the plant proposed to be constructed, including lands, buildings, facilities, and equipment, shall be less than one million dollars (\$1,000,000).

History. Acts 1957, No. 191, §§ 5, 7;
A.S.A. 1947, §§ 84-2820, 84-2822.

23-111-302. Application generally — Issuance of temporary franchise — Hearing and appeal.

(a) Any corporation desiring a franchise to conduct greyhound racing in any county in which a current franchise for greyhound racing is not held by another shall file its application therefor with the Arkansas Racing Commission and deposit with the commission the sum of five thousand dollars (\$5,000) to cover the expenses of publishing legal notices and to pay a pro rata part of the costs of the general election, all as provided in this chapter.

(b) The application shall set forth:

(1) The name of the corporation;

(2) The address of its principal office;

(3) The names and addresses of all of its officers and directors, a majority of whom must be residents of the State of Arkansas, and all of whom must be of good moral character;

(4) The name and address of its agent for service of process;

(5) Its latest financial statements;

(6) The estimated amount of funds which it proposes to spend for the acquisition of a site, the construction thereon of buildings and facilities, and the purchase of equipment for conducting racing meets;

(7) Copies of architectural plans and specifications for the buildings and facilities; and

(8) Such other information and requirements as the commission shall determine as necessary to enable it to pass upon the application.

(c)(1) Immediately upon the filing of each application, the commission shall investigate the personal background and financial responsibility of the officers, directors, and principal stockholders of the corporation, examine the plans and specifications of the buildings and facilities proposed to be constructed, and take into consideration such other facts and conditions as it shall find necessary or desirable in the premises. Within ninety (90) days after the date of the filing of any

application, the commission shall grant, or refuse to grant, a temporary franchise to the corporation.

(2) However, in all instances the commission shall give the applicant, and all others who shall have filed written requests to be heard on the question, not less than ten (10) days' notice of the date it proposes to formally consider the application. All interested parties shall have the right to appear before the commission and be heard.

(3) The commission shall make a record of its proceeding at each hearing.

(d)(1) Should the commission refuse to grant a temporary franchise, it shall set forth in writing its reasons for the refusal. A copy of the writing shall immediately be sent to the applicant by registered or certified United States mail to the address listed in the application.

(2) Within sixty (60) days after the date of any refusal, the applicant may file with the commission amendments to the application for the purpose of overcoming any of the objections on which the commission based its refusal to grant a temporary franchise. Within thirty (30) days after receipt of the amendments, the commission shall either confirm its original refusal or it may grant a temporary franchise.

(3) Within twenty (20) days following the date of original refusal, or within twenty (20) days following the date of refusal after the filing of any amendments, the applicant may appeal to the Pulaski County Circuit Court, and it shall be tried de novo on the record of the hearing before the commission.

(4) An appeal may be taken by the commission or by the applicant from the circuit court to the Arkansas Supreme Court. The appeal shall likewise be tried de novo.

(5) The mandate of the court shall be filed with the commission.

(e)(1) Should the commission grant a temporary franchise on its own motion or based upon the decision of the court, then the fact of the grant shall be certified by the commission to the Secretary of State, and the five thousand dollars (\$5,000) deposited with it under the provisions of subsection (a) of this section shall be paid over to the Secretary of State by the commission.

(2) Should a temporary franchise not be granted pursuant to this section, the funds deposited with it under subsection (a) of this section shall be refunded to the corporation by the commission.

History. Acts 1957, No. 191, § 8; 1965 (2nd Ex. Sess.), No. 7, § 2; A.S.A. 1947, § 84-2823.

CASE NOTES

Constitutionality.

The fact that the 1965 amendment to this section was introduced during the last three days of the second extraordinary session did not violate Ark. Const. Art. 5, § 34, as that section does not apply

to extraordinary sessions. *Spa Kennel Club, Inc. v. Dunaway*, 241 Ark. 51, 406 S.W.2d 128 (1966).

Cited: *Arkansas Racing Comm'n v. Emprise Corp.*, 254 Ark. 975, 497 S.W.2d 34 (1973).

23-111-303. Approval of electors required.

The Arkansas Racing Commission shall not be authorized to grant, nor shall it grant, a franchise to any corporation to conduct greyhound racing in any county in this state unless the commission has been authorized to grant a franchise as expressed by the approval of a majority of the qualified electors of the state voting on the proposition at the regular statewide biennial general election, as set forth in this chapter.

History. Acts 1957, No. 191, § 6; 1961, No. 56, § 1; 1965 (2nd Ex. Sess.), No. 7, § 1; A.S.A. 1947, § 84-2821.

CASE NOTES

Constitutionality.

The fact that the 1965 amendment to this section was introduced during the last three days of the second extraordinary session did not violate Ark. Const. Art. 5, § 34, as that section does not apply

to extraordinary sessions. *Spa Kennel Club, Inc. v. Dunaway*, 241 Ark. 51, 406 S.W.2d 128 (1966).

Cited: *Glover v. Hot Springs Kennel Club, Inc.*, 230 Ark. 544, 323 S.W.2d 902 (1959).

23-111-304. Elections.

(a)(1) After receipt of the certification provided for in § 23-111-302(e), the Secretary of State shall cause to be published, by one (1) insertion in a newspaper of general circulation published in each county of the state, not less than thirty (30) days nor more than sixty (60) days before the next general election, a notice reading substantially as follows:

“NOTICE is hereby given that at the next general election the following question will be placed upon the ballot for the approval or rejection by the qualified electors of the state voting at such general election:

“Shall the Arkansas Racing Commission be authorized to grant a franchise to conduct greyhound racing in County, Arkansas?

“Given under my hand on this day of, 20.....

Secretary of State of the State of Arkansas”

(2) If there is no such newspaper published in any county, the notice may be published in any newspaper having a general circulation in the county.

(b) Within the time prescribed by law for the certification of other questions to be submitted to a vote of the people at a general election, the Secretary of State shall duly certify to the county boards of election commissioners of the several counties of the state the question as set forth in the notice provided for in subsection (a) of this section.

(c) The county board of election commissioners of each county shall cause to be printed on the general election ballot the following:

“Shall the Arkansas Racing Commission be authorized to grant a franchise to conduct greyhound racing in County, Arkansas?

FOR authorizing the Arkansas Racing Commission to grant a franchise to conduct greyhound racing in County, Arkansas ☐

AGAINST authorizing the Arkansas Racing Commission to grant a franchise to conduct greyhound racing in County, Arkansas ☐”

(d) The county boards of election commissioners shall canvass the vote and, as in the instance of other statewide measures voted on by the people, certify the results thereof to the Secretary of State who shall forthwith tabulate all returns so received by him or her and, by published notice in a newspaper having a statewide circulation, proclaim the result of the election, setting out in the proclamation the total vote for and against the question submitted as provided in subsection (c) of this section. The result of the election as so proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of publication of the proclamation. All contests in relation thereto shall be under the general election laws of this state.

(e) The Secretary of State shall file a certified copy of the proclamation with the Arkansas Racing Commission, and the commission shall immediately notify the corporation of the result of the election.

(f) If a majority of the qualified electors of the state voting on the question vote against authorizing the commission to grant the franchise to conduct greyhound racing in the county, the temporary franchise held by the corporation shall, ipso facto, be null and void as of the final date on which a contest of the results of the election may be commenced or, in the event of contest, upon the date of final determination of the issue.

(g) By use of the moneys deposited with the Secretary of State under the provisions of § 23-111-302(e), the Secretary of State shall first pay the cost of publication of legal notices required under this section, and any funds which remain from the deposit shall be paid over in equal amounts to the treasurers of the several counties of the state for credit to the general fund.

History. Acts 1957, No. 191, § 9; 1961, No. 56, § 2; 1965 (2nd Ex. Sess.), No. 7, § 3; A.S.A. 1947, § 84-2824.

CASE NOTES

Constitutionality.

The fact that the 1965 amendment to this section was introduced during the last three days of the second extraordinary session did not violate Ark. Const. Art. 5, § 34, as that section does not apply

to extraordinary sessions. *Spa Kennel Club, Inc. v. Dunaway*, 241 Ark. 51, 406 S.W.2d 128 (1966).

Cited: *Glover v. Hot Springs Kennel Club, Inc.*, 230 Ark. 544, 323 S.W.2d 902 (1959).

23-111-305. Construction of racing plant — Issuance of permanent franchise.

(a)(1) If a majority of the qualified electors of the state voting on the question vote for authorizing the Arkansas Racing Commission to grant a franchise to conduct greyhound racing in the county, the corporation holding a temporary franchise, within ninety (90) days following the date of receipt of notification thereof from the commission as provided in § 23-111-304(d), shall acquire a site and commence the construction of buildings and facilities which it proposes to use in conducting greyhound racing meets.

(2) Failure of the corporation to acquire the site and commence construction within the ninety-day period shall constitute a forfeit of the temporary franchise.

(3) Should any holder of a temporary franchise acquire a site and commence construction within the ninety-day period but fail to complete construction and be open for business within one (1) year next following the end of the ninety-day period, or should the construction not be in substantial compliance with the plans and specifications theretofore filed with, and approved by, the commission, or should the aggregate total of costs of acquisition of a site, construction of buildings and facilities, and purchase of equipment be less than one million dollars (\$1,000,000), then the commission shall cancel the temporary franchise, and the cancellation shall constitute a forfeit thereof by the corporation.

(4) However, nothing contained in this section shall be construed so as to prohibit mutual agreement on the part of the commission and the corporation to making such changes in the plans and specifications for construction as may be deemed necessary or desirable, but no changes may be agreed to which will have the effect of reducing the total aggregate cost of plant and equipment below one million dollars (\$1,000,000).

(b) Upon completion of the plant within the time, in the manner, and at the minimum costs provided in subsection (a) of this section and the payment of a franchise fee in the amount of one thousand dollars (\$1,000) to the commission by the holder of the temporary franchise, the commission shall issue its franchise in exchange for the temporary franchise held by the corporation. The corporation may then proceed to conduct greyhound racing meets in accordance with the provisions of this chapter or other applicable law, and the franchise shall thereafter be effective in the hands of the corporation unless and until terminated by operation of law, or sooner if terminated by the commission based upon the corporation's failure to comply with applicable greyhound racing laws or by the voluntary forfeiture of the franchise by the franchise holder.

History. Acts 1957, No. 191, § 11; 1965 (2nd Ex. Sess.), No. 7, § 4; A.S.A. 1947, § 84-2826.

CASE NOTES

ANALYSIS

Constitutionality.
Cancellation of franchise.

Constitutionality.

The fact that the 1965 amendment to this section was introduced during the last three days of the second extraordinary session did not violate Ark. Const. Art. 5, § 34, as that section does not apply to extraordinary sessions. *Spa Kennel*

Club, Inc. v. Dunaway, 241 Ark. 51, 406 S.W.2d 128 (1966).

Cancellation of Franchise.

This section makes it very clear that if the law is not complied with the kennel club could have its franchise cancelled after it has spent approximately a million dollars. *Arkansas Racing Comm'n v. Hot Springs Kennel Club, Inc.*, 232 Ark. 504, 339 S.W.2d 126 (1960).

23-111-306. Subsequent referendum elections.

(a) After the elapse of not less than four (4) years next following the date of any election conducted pursuant to § 23-111-304, the county board of election commissioners shall call a special election on the proposition of continuing greyhound racing in the county. The election shall be called upon petitions filed with it containing the signatures of qualified electors of the county of not less than five percent (5%) of the total number voting in the election for county clerk of the county at the next preceding general election, together with a sum of money estimated by the board as sufficient to pay all expenses of the election.

(b)(1) The date of the special election shall be fixed by the board on a day not less than thirty (30) days nor more than ninety (90) days following the date of the filing of the petitions. The deposit of the funds as provided in subsection (a) of this section, and the election, shall be conducted and shall be subject to contest under the general election laws of this state.

(2) The proposition printed on the ballot shall be "FOR Greyhound Racing" and "AGAINST Greyhound Racing".

(3) By published notice, the board shall proclaim the results of the election and shall also certify the results to the Arkansas Racing Commission.

(4) All contests in relation to the results of the election shall be commenced within twenty (20) days next following the date of publication of notice as provided in subsection (a) of this section.

(c) If a majority of the qualified electors of the county voting on the question shall disapprove the continuance of greyhound racing, the franchise held by the corporation shall, ipso facto, be null and void as of the final date on which a contest of the results of the election may be commenced or, in the event of contest, upon the date of final determination of the issue.

History. Acts 1957, No. 191, § 10; 1968 (2nd Ex. Sess.), No. 15, § 1; A.S.A. 1947, § 84-2825.

Cross References. Election laws, § 7-1-101 et seq.

CASE NOTES

Cited: Glover v. Hot Springs Kennel Club, Inc., 230 Ark. 544, 323 S.W.2d 902 (1959).

23-111-307. Franchises granted prior to July 1, 1957.

(a)(1) Any permit granted prior to July 1, 1957, to conduct greyhound racing in this state is validated, and the action of the authority granting the permit is ratified and confirmed.

(2) Whether or not the permit has been granted for a definite period of time, the holder of the permit shall pay a franchise fee in an amount of one thousand dollars (\$1,000) and shall be deemed to have a franchise upon compliance with provisions of this chapter.

(b) The franchise shall continue in effect so long as the holder thereof shall comply with all applicable laws of this state relating to greyhound racing or until the rights thereunder shall terminate by operation of law making greyhound racing unlawful in the area covered by the franchise or until the forfeit of the franchise by the holder thereof.

History. Acts 1957, No. 191, § 6;
A.S.A. 1947, § 84-2821.

CASE NOTES

Rights of Franchise Holders.

Franchise holder's rights at time of cancellation were prospective in character, and a franchise granted to conduct dog racing is a privilege and not a property

right. Spa Kennel Club, Inc. v. Dunaway, 241 Ark. 51, 406 S.W.2d 128 (1966).

Cited: Glover v. Hot Springs Kennel Club, Inc., 230 Ark. 544, 323 S.W.2d 902 (1959).

23-111-308. Employees and patrons.

(a) No franchise holder shall permit any person under eighteen (18) years of age to be a patron of the pari-mutuel or certificate system of wagering conducted or supervised by it.

(b) The Arkansas Racing Commission shall have the right to require that every franchise holder shall employ residents of the State of Arkansas to the extent of eighty percent (80%) of the employees engaged in any greyhound race meet.

History. Acts 1957, No. 191, § 24;
A.S.A. 1947, § 84-2839; Acts 1997, No. 584, § 1.

SUBCHAPTER 4 — OFFICERS, DIRECTORS, STOCKHOLDERS, ETC., OF FRANCHISES

SECTION.

23-111-401. Purpose.
23-111-402. Definition.
23-111-403. Sections 23-111-401, 23-111-

SECTION.

402, 23-111-404, 23-111-405, and 23-111-407 — 23-111-409 supplemental.

SECTION.

23-111-404. Application for franchise.

23-111-405. Investigation by Arkansas Racing Commission.

23-111-406. Electoral and residency requirement.

23-111-407. Report of changes.

SECTION.

23-111-408. Intergovernmental cooperation.

23-111-409. Employment of special investigators and other personnel.

Effective Dates. Acts 1968 (2nd Ex. Sess.), No. 8, § 11: became law without Governor's signature, June 4, 1968. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present laws relating to dog racing are not entirely clear with respect to the authority of the Racing Commission to investigate the background of officers and stockholders of corporations applying for and corporations holding existing franchises to conduct dog racing; that it is in the best interests of the State of Arkansas and its citizens that this authority of the Commission be made clear in order that the Commission can effectively carry out its duty to supervise, regulate and control dog racing in this State in the public interest; and that this Act is immediately necessary to clarify the authority and responsibility of the Commission in this respect. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1969, No. 285, § 5: passed over Governor's veto, Mar. 18, 1969. Emergency clause provided: "It is hereby found and determined by the General Assembly that the conduct of a greyhound dog track in this State is a privilege which should be exercised by qualified and competent employees; that the officers and directors of any greyhound dog track should be residents of the county wherein such track is located and residents of this State in order to efficiently operate such track; and that only by the passage of this Act can this situation be remedied. Therefore, an

emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall become effective from and after its passage and approval."

Acts 1981, No. 443, § 3: Mar. 12, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 285 of 1969 required that all officers and directors of greyhound dog tracks in this State be qualified electors of this State and shall have resided within the county in which the track is located for two (2) years prior to election or selection; that such requirement denies an opportunity for a greyhound dog track to have officers or directors who are not residents of the State of Arkansas but who can contribute substantially to the management and operation of such greyhound dog track; and that the immediate passage of this Act is necessary to amend Act 285 of 1969 to permit persons who are not residents of this State or of the county in which the track is located an opportunity to serve as an officer or member of the board of directors of said dog track, provided that, a majority of all such officers and directors at all times be composed of qualified electors of this State who have resided in the county in which the dog track is located for a period of not less than two (2) years and who maintain their residence in the county in which the track is located during their tenure as an officer or director thereof. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

23-111-401. Purpose.

(a) It is determined by the General Assembly that the business of conducting dog racing and pari-mutuel wagering thereon is so clothed

with the public interest that the operation should be closely regulated and controlled to the end that the operation will not be conducted in a manner detrimental to the public interest of this state and its citizens and that the policy and manner of operation of the business is largely determined by those who have substantial financial interests in the corporate franchise holder.

(b) Therefore, it is the purpose and intent of §§ 23-111-402 — 23-111-405 and 23-111-407 — 23-111-409 to broaden, clarify, and strengthen the authority of the Arkansas Racing Commission to investigate the personal background of officers, directors, and principal stockholders of applicants for, and holders of, franchises to conduct dog racing in this state and to deny application for, suspend, or revoke a dog racing franchise upon the basis of the personal background of an officer, director, or principal stockholder of an applicant for, or holder of, a franchise, in order that the commission can better perform its duty to regulate and control dog racing in this state in the public interest.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 9; A.S.A. 1947, § 84-2823.9.

23-111-402. Definition.

For the purposes of §§ 23-111-401, 23-111-403 — 23-111-405, and 23-111-407 — 23-111-409, “principal stockholder” means every stockholder, either individual, partnership, association, or corporation, owning or having control of ten percent (10%) or more of the outstanding stock of a corporation which is an applicant for, or holder of, a franchise to conduct dog racing in this state.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 4; A.S.A. 1947, § 84-2823.4.

23-111-403. Sections 23-111-401, 23-111-402, 23-111-404, 23-111-405, and 23-111-407 — 23-111-409 supplemental.

The provisions of §§ 23-111-401, 23-111-402, 23-111-404, 23-111-405, and 23-111-407 — 23-111-409 are supplemental to the provisions of §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, and 23-111-506 — 23-111-514, and all other laws regarding dog racing in this state and shall not be construed to repeal or modify any of those laws.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 8; A.S.A. 1947, § 84-2823.8.

23-111-404. Application for franchise.

In addition to the information required by §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, and 23-111-506 — 23-111-514, every application filed with the Arkansas Racing Commission for a franchise to conduct dog racing in any county

of this state shall set forth the total number of outstanding shares of stock of the applicant corporation and the number of the shares of stock owned or under the control of each of the stockholders of the applicant corporation.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 1; A.S.A. 1947, § 84-2823.1.

23-111-405. Investigation by Arkansas Racing Commission.

(a)(1)(A) The Arkansas Racing Commission is authorized to conduct a thorough investigation of the personal background of each officer, each director, and each principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state.

(B) In the event a corporation, partnership, or association qualifies as a principal stockholder of an applicant for, or holder of, a franchise for conducting dog racing in this state, then the commission is authorized to conduct a thorough investigation of the personal background of each officer, director, and stockholder of the corporation or the personal background of each member of the partnership or association.

(2) In investigating the personal background of an officer, director, or principal stockholder of an applicant for, or holder of, a dog racing franchise, or the officers, directors, and stockholders of a corporation qualifying as a principal stockholder or the members of any partnership or association qualifying as a principal stockholder, the commission may take into consideration:

(A) Present and past business associations of a person and corporate stockholdings of the person;

(B) Any connection the person has or may have had with any gambling operations or other unlawful operations in this state or any other state;

(C) Any criminal convictions of the person; and

(D) Such other matters as the commission shall deem helpful in determining whether the ownership by the person, corporation, partnership, or association qualifying as a principal stockholder of a substantial amount of stock in the corporate applicant for, or holder of, a franchise to conduct dog racing in this state would or would not be detrimental to the public interest of this state.

(b) The commission may refuse to grant a franchise or temporary franchise or it may suspend or revoke an existing franchise if after investigation and hearing it determines that an officer, director, or principal stockholder of the applicant for, or holder of, a franchise is of undesirable personal background.

(c) The commission may refuse to grant a franchise or temporary franchise or it may suspend or revoke an existing franchise if after investigation and hearing it determines that an officer, director, or stockholder of a corporation qualifying as a principal stockholder under § 23-111-402 or a member of any partnership or association qualifying

as a principal stockholder under the provisions of § 23-111-402 is of undesirable personal background.

(d)(1) Before the commission refuses to grant any franchise or temporary franchise or suspends or revokes an existing franchise on the basis of the personal background of any officer, director, or principal stockholder of the applicant for, or holder of, a franchise, the commission shall:

(A) Set a date and time for a hearing on the matter;

(B) Notify the applicant or franchise holder of:

(i) The specific findings of the commission upon the basis of which it proposed to refuse, suspend, or revoke the franchise; and

(ii) The date and time of the hearing; and

(C) At least ten (10) days prior to the hearing, publish notice of the hearing in a newspaper of general circulation in the county in which dog racing is held or proposed to be held under the franchise.

(2) Notice shall be given to the applicant or franchise holder by registered mail addressed to the applicant or franchise holder at its principal office as shown in the application or in other records of the commission at least ten (10) days prior to the date of the hearing.

(3) At the hearing the applicant for, or holder of, a franchise and other interested persons shall be permitted to appear and present evidence relevant to the issue or finding upon which the commission proposes to deny, suspend, or revoke a franchise.

(4) All proceedings before the commission pursuant to this section and the right of appeal therefrom shall be conducted in accordance with, and taken in the manner provided in, and in every way subject to, the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1968 (2nd Ex. Sess.), No. 8, §§ 3, 5; A.S.A. 1947, §§ 84-2823.3, 84-2823.5.

23-111-406. Electoral and residency requirement.

(a) A majority of all officers and directors of any greyhound dog track in this state shall be qualified electors of this state who have resided in the county in which the track is located for a period of not less than two (2) years and shall maintain a residence in the county during their tenure as officers or directors thereof.

(b) Any person who may be elected or selected as an officer or director of any greyhound dog track, prior to his or her election or selection, shall submit to the Arkansas Racing Commission a duly verified affidavit setting forth information indicating whether he or she is a qualified elector of this state, his or her place of residence, and the period of time during which he or she has resided at his or her place of residence, in order that the commission may determine that the provisions of this section are being complied with.

(c) If there is any change in any of the material facts noted on the verified affidavit filed with the commission by the officer or director of

a greyhound dog track, the officer or director, within thirty (30) days after the occurrence of the change, shall submit a new verified affidavit to the commission as required in this section, noting the change.

(d) Any person who furnishes false information in the affidavit filed with the commission, as required in this section, or fails to file a replacement verified affidavit with the commission within thirty (30) days after the change of any material fact noted on the affidavit previously filed with the commission shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisonment for not less than three (3) months nor more than one (1) year, or both fine and imprisonment.

History. Acts 1969, No. 285, §§ 1, 2; 1981, No. 443, §§ 1, 2; A.S.A. 1947, §§ 84-2823.10, 84-2823.11.

CASE NOTES

Constitutionality.

This section constitutes a reasonable exercise of the state's police power and is valid. *Rodgers v. Southland Racing Corp.*,

247 Ark. 1115, 450 S.W.2d 3, appeal dismissed, 400 U.S. 809, 91 S. Ct. 42, 27 L. Ed. 2d 37 (1970).

23-111-407. Report of changes.

Every holder of a franchise to conduct dog racing in this state shall report any and all changes in its board of directors, executive officers, and other management personnel, and all changes in the ownership of its stock, to the Arkansas Racing Commission within ten (10) days next following such a change.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 2; A.S.A. 1947, § 84-2823.2.

23-111-408. Intergovernmental cooperation.

The Arkansas Racing Commission is authorized to cooperate with and share information with federal officers and agencies and with officers and agencies of this state and subdivisions thereof and officers and agencies of other states and subdivisions, to the extent that the commission deems necessary or helpful to it in carrying out the purposes of §§ 23-111-401 — 23-111-405, 23-111-407, and 23-111-409.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 6; A.S.A. 1947, § 84-2823.6.

23-111-409. Employment of special investigators and other personnel.

The Arkansas Racing Commission is authorized to employ such special investigators and other personnel as it shall deem necessary to

investigate the personal background of officers, directors, and principal stockholders of applicants for and holders of dog racing franchises and to do and perform all other acts and functions it deems necessary to carry out the purpose and intent of §§ 23-111-401 — 23-111-405, 23-111-407, and 23-111-408.

History. Acts 1968 (2nd Ex. Sess.), No. 8, § 7; A.S.A. 1947, § 84-2823.7.

SUBCHAPTER 5 — CONDUCT OF MEETS

SECTION.

- 23-111-501. Accordance with franchise required.
- 23-111-502. Number of racing days and meets generally — Hours.
- 23-111-503. Additional racing days for benefit of city general fund and Division of Developmental Disabilities Services.
- 23-111-504. Additional racing days for municipal assistance — Distribution of net proceeds to municipalities.
- 23-111-505. Additional racing days for benefit of indigent patients, etc.
- 23-111-506. Application for license to conduct meet — Issuance.
- 23-111-507. License for greyhound owner and greyhound trainer required.

SECTION.

- 23-111-508. Wagering.
- 23-111-509. Disposition of wagering money.
- 23-111-510. Admission tax.
- 23-111-511. Record keeping by franchise holder — Audit.
- 23-111-512. Commission's access to meets, books, records, etc.
- 23-111-513. Failure to pay tax.
- 23-111-514. Franchise holder required to give bond.
- 23-111-515. Additional racing days for the benefit of small municipalities and community colleges.
- 23-111-516. Health insurance.
- 23-111-517. Disposition of pari-mutuel tax revenue.

A.C.R.C. Notes. Acts 2001, No. 1488, § 2, provided: "One Hundred Thousand dollars (\$100,000) of the balance of the Indigent Patient's Fund on the effective date of this act shall be transferred by the Chief Fiscal Officer of the State to the Mid-South Community College Fund and the Chief Fiscal Officer shall notify the Treasurer of State and Auditor of State of the transfer."

References to "this chapter" in subchapters 1-4 and §§ 23-111-501 — 23-111-514 may not apply to §§ 23-111-515 — 23-111-517 which were enacted subsequently.

Effective Dates. Acts 1957, No. 191, § 30: July 1, 1957.

Acts 1965, No. 142, § 5: Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas: (a) that traffic

accidents resulting in injuries and deaths of persons and damages to property are increasing at an alarming rate; (b) that present revenues for employment of personnel in the Department of Arkansas State Police are wholly inadequate to properly handle the problem of highway safety; and (c) that only the provisions of this act will tend to provide funds in amounts sufficient to employ the necessary personnel to patrol the highways and thereby reduce the incidence of highway accidents. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of public peace, health and safety shall take effect and be in full force on and after its passage and approval."

Acts 1971, No. 382, § 5: Mar. 24, 1971. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that the present greyhound racing law provides that the track retain $\frac{1}{3}$ of all odd cents or breakage and $\frac{1}{3}$ of the value represented by lost and void pari-mutuel tickets; that it is immediately necessary to provide cities in which greyhound race tracks are located additional funds in order that such cities may properly police and enforce dog racing in such city and that this Act is designed to provide such additional funds by giving that portion of the breakage and that portion of the value of void pari-mutuel tickets heretofore retained by the track to the city in which the track is located. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 780, § 5: July 1, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Sixty-Ninth General Assembly has provided additional funds for the support of the Police Services Division of the Department of Public Safety from the General Revenues of the State; that since such additional General Revenue funds are provided, it is desirable that certain funds heretofore designated as Special Revenues for the support of the State Police be hereafter designated as General Revenues, and that it is essential that this Act become effective on July 1, 1973, in order to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1973."

Acts 1973, No. 879, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the providing of youth recreational and related activities by charitable non-profit organizations in cities in this State in which dog racing tracks are located is of benefit to the young people of said city, and that the immediate passage of this Act is necessary to authorize cities of this State to use moneys now received from the uncollected winning pari-mutuel tickets at dog racing tracks for the benefit of youthful females of said city, and that the immediate passage of this Act is necessary to accomplish said purpose. There-

fore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 352, § 3: Mar. 10, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order to enable the State Racing Commission to adequately and efficiently regulate the conduct of horse and greyhound racing meets in this State it is necessary to establish appropriate fees for the owners, trainers, jockeys, and jockey agents at such racing meets. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 424, § 3: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that additional funds are needed for the support of essential services of the State of Arkansas which derive support from the 'general revenues' of the State; that the providing of a special excise tax to be levied upon moneys bid at greyhound races in this State will provide the funds required not only to maintain levels of services, but also to provide funds required to meet expanding needs for nursing home services, the relieving of overcrowded conditions at the penal facilities of the Department of Correction, the providing of health care and services for crippled children and indigent patients at State-supported facilities, and other essential services, and that the immediate passage of this Act is necessary in order to enable the State to collect such additional taxes for the entire duration of the greyhound racing meets held in this State during the calendar year 1983. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 383, § 6: Mar. 24, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that additional general revenue funds will be necessary to enable the public schools of this State to meet the mini-

mum standards required under the Quality Education Act; that the Department of Correction will be unable to open beds required to house inmates committed to the Department, and that the Department of Human Services will find it necessary to curtail essential medical, hospital, and nursing home services for indigents of this State, unless additional general revenue funds are provided; and that the revenues to be produced under the provisions of this Act will assist in relieving such problems. Therefore, an emergency is hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and welfare, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 238, § 6; Feb. 24, 1989. Emergency clause provided: "It is hereby found and determined by the 77th General Assembly, in Regular Session, that competition outside the State of Arkansas is detrimental to a regulated industry within this State, and the economic change in the racing industry adversely affects the benefits to the State of Arkansas, and that the effectiveness of this Act is essential to the protection of a regulated industry and the benefits to the State of Arkansas. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 850, § 5; Mar. 29, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly of the State of Arkansas that the method of distributing the money wagered at the dog racing tracks in Arkansas needs to be revised and that, unless this method of distribution is changed, serious financial harm might occur to the dog racing franchise holders. Therefore, in order to insure that imminent financial harm does not occur, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1163, § 5; Apr. 14, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas is in

immediate need of additional revenues to provide adequate funding for essential services required by the citizens of this State; that the Medicaid Program is in desperate need of funds; that this act is necessary to generate revenue; and that unless this act goes into effect immediately, the services provided the citizens of this State will be drastically curtailed. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Identical Acts 1995, Nos. 342 and 347, § 6; Feb. 16, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly of the State of Arkansas that the state's greyhound pari-mutuel racetrack located in Crittenden County, Arkansas, and its constituent business base composed of kennel owners, breeders, trainers, and local business have been severely damaged by the development of casino gaming in the State of Mississippi. Casino gaming in Mississippi pays a disproportionately lower tax, allowing those operators to spend correspondingly higher amounts for marketing and promotion. The state's greyhound racetrack needs substantial renovation and needs substantial investment to promote attendance and tourism in order to compete. An immediate restructuring of the statutorily mandated payments is required to enable the state's greyhound racetrack to improve purse structures for the kennel owners; enhance the required charitable contributions which benefit all citizens in the state; to continue to provide a significant employment base; and in order to maintain the viability of greyhound pari-mutuel racing in this state. The legislature hereby declares an emergency to exist and this act shall take effect immediately upon its passage. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1999, No. 1508, § 19; Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in

the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1509, § 9: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act is necessary in order to eliminate confusion and conflict regarding the interpretation of Arkansas Code 23-111-509 and to facilitate the collection and distribution of funds as referenced therein. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1837, § 3: became law without Governor's signature Apr. 19, 2001. The emergency clause provided: "It is determined by the General Assembly that greyhound racing and activities related thereto in Arkansas have a significant favorable impact on the economy of the entire state and the welfare of our citizens and residents, that the competition from outside the State of Arkansas is having an adverse impact on the greyhound racing industry in Arkansas, that it

is imperative that Arkansas franchise holders be able to increase purses, improve facilities and encourage patronage and tourism in order to keep up with competition and hold and improve Arkansas' premiere and traditional position in greyhound racing, and in order to accomplish these goals, essential to the welfare of the State and its citizens and residents, this act must be effective immediately. Therefore, an emergency is hereby declared to exist, and this act, being immediately necessary for the preservation of the public peace, health and safety, shall take effect, and be in full force, immediately from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last House overrides the veto."

Acts 2001, No. 1666, § 92: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2001 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2001 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001. Provided however, that the Section which amends Act 937 of 1999, the Section that provides \$6,750,000 in supplemental appropriation for Disaster Assistance and the Section that provides \$1,500,000 in supplemental appropriation for Disaster Assistance—Federal shall be effective on the date of its passage and approval."

RESEARCH REFERENCES

Ark. L. Rev. Administrative License Revocation in Arkansas, 14 Ark. L. Rev. 139.

23-111-501. Accordance with franchise required.

(a) Any franchise holder or any person aiding or abetting in the holding or conducting of any greyhound racing meet at which greyhound racing shall be permitted for any stake, purse, or reward except in accordance with a franchise duly issued as provided in this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment.

(b) For the purposes of this section, each day of racing in violation of the provisions of this chapter shall be considered as a separate and distinct offense.

History. Acts 1957, No. 191, § 17;
A.S.A. 1947, § 84-2832.

23-111-502. Number of racing days and meets generally — Hours.

(a) Upon application of the dog racing franchise holder, the Arkansas Racing Commission may authorize each dog racing franchise holder to conduct, during any calendar year, not more than two (2) racing meets of one hundred twenty-two (122) nights each, on those nights which the commission may determine to be in the best interest of the dog racing franchisee, kennel owners, and greyhound racing in the State of Arkansas, Sundays excepted.

(b) All night racing at any meet shall be held between the hours of 6:00 p.m. and 12:00 midnight.

(c) At the option of the franchise holder, daylight racing may be conducted in addition to night racing on:

(1) One (1) day, other than a Sunday, during each calendar week of a regular racing meet; and

(2) Memorial Day, Independence Day holiday, and Labor Day.

(d) At the option of the franchise holder, upon application to the commission, in addition to night racing and that provided under subsection (c) of this section, up to five (5) additional daylight performances may be conducted each calendar week of a regular racing meet.

(e) All racing days provided for under §§ 23-111-503 — 23-111-505 shall be conducted at night.

History. Acts 1985, No. 924, § 1; 383, § 1; 1989, No. 238, § 1; 1995, No. A.S.A. 1947, § 84-2848; Acts 1987, No. 342, § 1; 1995, No. 347, § 1.

23-111-503. Additional racing days for benefit of city general fund and Division of Developmental Disabilities Services.

(a) The Arkansas Racing Commission is authorized to allow each dog racing franchise holder to conduct three (3) additional days of racing at any dog racing meet. The franchise holder shall agree that the net proceeds derived from the additional days shall be credited as follows:

(1) One-third ($\frac{1}{3}$) to be deposited with the city treasurer or collector of the city in which the dog racing track is located for credit to the city general fund to be used for charitable purposes only, as determined by the mayor and governing body; and

(2) Two-thirds ($\frac{2}{3}$) to be deposited with the Treasurer of State as special revenue to be used for the sole benefit for community programs of the Division of Developmental Disabilities Services of the Department of Human Services.

(b) Employees of the dog racing track shall be allowed to donate their services for the additional days of dog racing allowed by the commission under this section.

(c) Net proceeds derived from the additional days of dog racing shall be the proceeds derived from the pari-mutuel wagering at, and admissions to, the dog racing track less the cost of salaries, if any, of all employees, fuel, lights, purses, taxes, and other fees and costs incurred by the franchise holder in conducting the additional days of racing.

(d) The commission shall establish appropriate rules and regulations to assure compliance with the provisions of this section and shall audit and verify all receipts and expenditures of the franchise holder in determining compliance with this section.

History. Acts 1985, No. 924, § 2;
A.S.A. 1947, § 84-2849; Acts 1987, No.
383, § 2.

23-111-504. Additional racing days for municipal assistance — Distribution of net proceeds to municipalities.

(a) The Arkansas Racing Commission is authorized to allow each dog racing franchise holder to conduct six (6) additional days of racing during each calendar year in addition to any other days of dog racing authorized by law.

(b) The net proceeds, as defined in § 23-111-503, derived from two (2) of the additional days of dog racing shall be deposited with the Treasurer of State as special revenue for credit to the Municipal Aid Fund. Moneys deposited in the fund shall be distributed to all municipalities located in the county in which the dog racing meet is held, except the municipality in which the dog racing track is located, with each municipality to receive such portion of the fund as the population of the municipality bears to the total population of all participating municipalities in the county.

History. Acts 1985, No. 924, § 3;
A.S.A. 1947, § 84-2850.

23-111-505. Additional racing days for benefit of indigent patients, etc.

(a) The Arkansas Racing Commission is authorized to allow each dog racing franchise holder to conduct fifteen (15) additional days of racing during each twelve-month period. The additional days of racing may be divided between each of the two (2) racing meets allowed by § 23-111-502, or all the additional days of racing may be added to a single racing meet as determined by the commission. In the event the additional days allowed by the commission fall upon a Saturday or Saturdays, then the franchise holder, at its option, may conduct daylight racing as authorized for a regular racing meet.

(b)(1) All revenue derived from the pari-mutuel tax at the fifteen (15) additional days of racing authorized by subsection (a) of this section after moneys have been remitted by the franchise holder to Mid-South Community College as provided by § 23-111-517 shall be deposited with the Treasurer of State as special revenue for credit to the Indigent Patients Fund, to be used by Mississippi County, Poinsett County, Cross County, St. Francis County, and Lee County to defray the cost of hospitalization and other medical services of indigent Arkansas patients in health care facilities for which the county has not received total reimbursement.

(2) Each county shall certify to the Chief Fiscal Officer of the State the amount of the unreimbursed medical expenses under such procedures and such detail as required by the Department of Finance and Administration.

(3) The amount available to each county shall be no more than one-fifth ($\frac{1}{5}$) of the total funds available or the amount certified of unreimbursed medical expenses, whichever is less.

(c) The commission is authorized to allow each dog racing franchise holder to conduct two (2) additional days of racing at any dog racing meet. The net proceeds derived from these additional days shall be deposited with the city treasurer or collector of the city in which the dog racing track is located for credit to the city general fund to be used for providing assistance and relief to disaster victims, indigent persons, organizations which assist such persons, and for education purposes.

History. Acts 1985, No. 924, § 4; A.S.A. 1947, § 84-2851; Acts 1987, No. 383, § 3; 1989, No. 238, § 2; 2001, No. 1666, § 22.

A.C.R.C. Notes. Acts 1989 (1st Ex. Sess.), No. 211, § 5, provided: "From the funds derived from the pari-mutuel tax on additional days of dog racing as authorized by law and deposited in the Indigent Patient's Hospitalization Fund, as authorized by § 23-111-505, the following shall be made available each fiscal year:

"(a) \$500,000 for defraying the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals;

"(b) Funds in excess of \$500,000 shall be allotted to the Crittenden County EMS up to \$100,000 per year; and

"(c) In the event there are funds remaining after the distributions have been made as specified in subsections (a) and (b) herein, the balance shall be first used

to fully fund the appropriation for out-of-state hospitalization and any remainder shall be carried forward to the next fiscal year to be used for the same purposes.”

Acts 1989 (1st Ex. Sess.), No. 241, § 3, provided: “Commencing with the fiscal year beginning July 1, 1989, and for each year thereafter unless otherwise provided by law, revenues derived from the pari-mutuel tax on the fifteen (15) additional days of dog racing, as authorized by law, shall be deposited in the State Treasury to the credit of the Indigent Patients Hospitalization Fund as authorized by Arkansas Code 23-11-505, to be used, in addition to the purposes now provided by law, in an amount not to exceed Two Hundred Thousand Dollars (\$200,000) in any fiscal year, for the support of the Emergency Medical Services Programs of Mississippi County, Poinsett County, Cross County, St. Francis County and Lee County, and additional support for the Emergency Medical Services Program of Crittenden County.”

Acts 1991, No. 249, § 7, as amended by Acts 1993, No. 992, § 1, provided: “From the funds derived from the pari-mutuel tax on additional days of dog racing as authorized by law and deposited in the Indigent Patient's Hospitalization Fund, as authorized by this section the following shall be made available each fiscal year:

“(a) Five hundred thousand dollars (\$500,000) for defraying the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals; for nonemergency transportation for medical purposes, provided however, that such transportation shall not exceed a two hundred mile radius from the patient's point of origin; and provided further that on July 1 of each year, the sum of two hundred thousand dollars (\$200,000) shall be transferred to the Arkansas Department of Health to be used exclusively for limited laboratory, medical and outpatient hospital services in the counties of Crittenden, Cross, Craighead, Greene, Lee, Mississippi, Phillips, Poinsett and St. Francis.

“(b) Funds in excess of five hundred thousand dollars (\$500,000) shall be allotted to the Crittenden County Emergency Medical Service up to one hundred thousand dollars (\$100,000) per fiscal year;

“(c) Funds in excess of six hundred thousand dollars (\$600,000) shall be allocated to fund any contract obligations over and

above the total amount allowed in Act 249 of 1991, section 3 Item (2) to defray the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals, not to exceed two hundred thousand dollars (\$200,000) per fiscal year;

“(d) If there are funds available after the distributions have been made as specified in subsection (b) of this section, the available amount shall be used for the support and operation of the Emergency Medical Services Programs of Cross, Lee, Mississippi, Poinsett, and St. Francis counties, not to exceed one hundred fifty thousand dollars (\$150,000) per fiscal year; and additional support for Emergency Medical Services Program of Crittenden County, not to exceed fifty thousand (\$50,000) per fiscal year;

“(e) Upon receipt of said moneys as allowed in subdivision (c)(1) of this section, the treasurer of each county shall deposit the same in a special account to be known as the ‘County Emergency Medical Services Fund’, to be used for providing emergency medical services within those counties in accordance with appropriations made therefore by the quorum court of the appropriate county; and

“(f) In the event there are funds remaining after the distributions have been made as specified in subsections (b) and (c) herein, the balance shall be carried forward to the next fiscal year to be used for the same purposes.”

Acts 1993, No. 76, § 6, provided: “The appropriation provided in Item (06) of Section 1 herein shall be expended only for the purpose of contracting with the Public Defender of Pulaski County to provide defense for the mentally ill. The appropriations made by Items (01), (02) and (03), of Section 1 are to provide state assistance grants to: (A) each Planning and Development District organized under Ark. Code §§ 14-166-201 et seq., and recognized by the Governor and, (B) locally formed organizations organized under The Interlocal Cooperation Act (Ark. Code §§ 25-20-101 et seq.), or other Acts which permit interstate cooperation among local governments and intrastate cooperation. Such grants are to be made in equal payments within each category of organization.”

Acts 1993, No. 76, § 7, provided: “From the funds derived from the pari-mutuel

tax on additional days of dog racing as authorized by law and deposited in the Indigent Patient's Fund, as authorized by Arkansas Code §§ 23-111-505, the following shall be made available each fiscal year:

"(a) \$500,000 for defraying the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals and may include provisions for non-emergency transportation for medical purposes. Provided however, that such transportation shall not exceed a 200 mile radius from the patient's point of origin.

"(b) Funds in excess of \$500,000 shall be allotted to the Crittenden County EMS up to \$100,000 per fiscal year;

"(c) Funds in excess of \$600,000 shall be allocated to fund any contract obligations over and above the total amount allowed in Section 3 Item (2) to defray the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals, not to exceed \$200,000 per fiscal year;

"(d) If there are funds available after the distributions have been made as specified in subsection (a), (b), and (c) above, the available amount shall be used for the support and operation of the Emergency Medical Services Programs of Cross, Lee, Mississippi, Poinsett, and St. Francis counties, not to exceed \$150,000 per fiscal year; and additional support for the Emergency Medical Services Program of Crittenden County, not to exceed \$50,000 per fiscal year;

"(e) Upon receipt of said monies as allowed in subsection (d), the treasurer of each county shall deposit the same in a special account to be known as the "County Emergency Medical Services Fund", to be used for providing emergency medical services within those counties in accordance with appropriations made therefore by the quorum court of the appropriate county; and

"(f) In the event there are funds remaining after the distributions have been made as specified in subsections (a), (b), (c), and (d) herein, the balance shall be carried forward to the next fiscal year to be used for the same purposes."

Acts 1995, No. 637, § 10, provided: "DFA/GRANTS-INDIGENT PATIENTS DISTRIBUTION. From the funds derived from the pari-mutuel tax on additional days of dog racing as authorized by law

and deposited in the Indigent Patient's Fund, as authorized by Arkansas Code § 23-111-505, the following shall be made available each fiscal year:

"(a) \$500,000 for defraying the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals and may include provisions for non-emergency transportation for medical purposes. Provided however, that such transportation shall not exceed a 200 mile radius from the patient's point of origin.

"(b) Funds in excess of \$500,000 shall be allotted to the Crittenden County EMS up to \$100,000 per fiscal year;

"(c) Funds in excess of \$600,000 shall be allocated to fund any contract obligations over and above the total amount allowed in Section 3 Item (2) to defray the cost of hospitalization and medical services of indigent Arkansas patients in out-of-state hospitals, not to exceed \$200,000 per fiscal year;

"(d) If there are funds available after the distributions have been made as specified in subsections (a), (b), and (c) above, the available amount shall be used for the support and operation of the Emergency Medical Services Programs of Cross, Lee, Mississippi, Poinsett, and St. Francis counties, not to exceed \$150,000 per fiscal year; and additional support for the Emergency Medical Services Program of Crittenden County, not to exceed \$50,000 per fiscal year;

"(e) Upon receipt of said monies as allowed in subsection (d), the treasurer of each county shall deposit the same in a special account to be known as the "County Emergency Medical Services Fund", to be used for providing emergency medical services within those counties in accordance with appropriations made therefore by the quorum court of the appropriate county; and

"(f) In the event there are funds remaining after the distributions have been made as specified in subsections (a), (b), (c), and (d) herein, the balance shall be carried forward to the next fiscal year to be used for the same purposes."

Acts 2001, No. 1488, § 2, provided: "One Hundred Thousand dollars (\$100,000) of the balance of the Indigent Patient's Fund on the effective date of this act shall be transferred by the Chief Fiscal Officer of the State to the Mid-South Community College Fund and the Chief Fiscal

Officer shall notify the Treasurer of State and Auditor of State of the transfer.”

The provisions of subsections (a) and (b) of this section are affected by the subsequent enactment of § 23-111-517 by Acts 2001, No. 1488, § 1.

Amendments. The 2001 amendment redesignated former (b) as present (b)(1) and rewrote it; added present (b)(2) and (b)(3); and deleted former (b)(2) through (c), and redesignated the remaining subsections accordingly.

23-111-506. Application for license to conduct meet — Issuance.

(a)(1) Before any franchise holder conducts a racing meet in the county in which it holds a franchise, it shall file with the Arkansas Racing Commission an application to hold the meet and a bond in the sum of ten thousand dollars (\$10,000) payable to the State of Arkansas, with a surety to be approved by the commission, conditioned that the franchise holder shall:

(A) Faithfully make the payments to the commission;

(B) Keep its books and records and make reports as provided in this chapter; and

(C) Conduct the greyhound racing in conformity with this chapter.

(2) The application shall specify the dates on which it is intended or desired to conduct or hold the meet and such further information as the commission may prescribe.

(3)(A) The license fee required to be paid by the franchise holder under the provisions of this section shall be computed at the rate of three hundred dollars (\$300) per day, payable each day of the meet to the commission.

(B) The license fee imposed by this section shall be in lieu of all other license or occupation fees or taxes which otherwise would be due by the franchise holder to the State of Arkansas, or to any of its political subdivisions.

(b)(1) Each application shall be filed with the commission at least one hundred twenty (120) days prior to the date upon which it is desired to begin the racing meet.

(2) Whenever mutually agreeable to the commission and the franchise holder, the commission may allot racing dates other than those requested in the application.

(c) Immediately following the allotting of any racing dates and the issuance of a license to hold a racing meet, the commission shall notify the franchise holder of the dates allotted. The notice shall be in writing and sent by registered or certified United States mail to the franchise holder. Each notice and license shall be mailed by the commission at least ninety (90) days before the date fixed for the beginning of the racing meet.

(d)(1) Each license shall specify:

(A) The name of the franchise holder;

(B) The dates on which the racing meet shall be held or conducted; and

(C) The location of the place, track, or enclosure at which the racing meet is to be conducted.

(2) No license shall be transferable, nor shall it apply to any place, track, or enclosure other than the one specified in the license.

(e)(1) If the commission refuses an application for a license, it shall notify the franchise holder. This notice must be in writing and sent by registered or certified United States mail to the franchise holder and shall be mailed by the commission at least twenty (20) days before the date fixed in the application for the beginning of the racing meet. In each instance the notice shall contain the reasons for refusal of the application.

(2) No application shall be refused until after the franchise holder has been granted a hearing by the commission.

History. Acts 1957, No. 191, § 14;
1971, No. 30, § 1; A.S.A. 1947, § 84-2829.

23-111-507. License for greyhound owner and greyhound trainer required.

Each greyhound owner shall pay the Arkansas Racing Commission a license fee of twenty dollars (\$20.00), and each greyhound trainer shall pay the commission a license fee of fifteen dollars (\$15.00) before participating in any greyhound racing meet.

History. Acts 1957, No. 191, § 16;
1975, No. 352, § 2; A.S.A. 1947, § 84-2831.

23-111-508. Wagering.

(a)(1) Any franchise holder conducting a greyhound racing meet may provide places in the race meeting grounds, or enclosure, at which it may conduct and supervise the pari-mutuel or certificate system of wagering by patrons on the races conducted by the franchise holder at the meeting.

(2) The pari-mutuel or certificate method of wagering upon races held at the race track, within the race track, and at the racing meet shall not under any circumstances, if conducted under the provisions of this chapter, be held or construed to be unlawful, all other laws or parts of laws of the State of Arkansas to the contrary notwithstanding.

(b) No other place or method of wagering shall be used or permitted by the franchise holder, nor shall the pari-mutuel or certificate system of wagering be conducted on any races except races at the race track where the franchise holder holds a current license issued by the Arkansas Racing Commission.

(c) No franchise holder shall permit any minor to be a patron of the pari-mutuel or certificate system of wagering conducted or supervised by it.

(d)(1)(A) However, nothing contained in this section shall be construed to permit the pari-mutuel or certificate method of wagering upon any race track unless the track is licensed as provided by this chapter.

(B) It is declared to be unlawful for any franchise holder to permit, conduct, or supervise any pari-mutuel or certificate method of wagering upon any race track, except in accordance with the provisions of this chapter.

(2) There shall be no wagering on the results of any races except under the pari-mutuel or certificate method of wagering, as provided for in this chapter, and then only by the installation and use of equipment approved by the commission.

(3) In addition to the pari-mutuel or certificate system of wagering as authorized by this chapter, the commission is authorized and directed to establish and adopt rules and regulations permitting the conduct of pari-mutuel or certificate system of wagering upon racing, either horse or greyhound, shown live or in any other manner approved by the the commission by television or otherwise to or from the premises of the franchise holder.

(4) Any franchise holder or any person wagering under any other method at a licensed race track shall be guilty of a felony and, upon conviction, shall be punished for each offense by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) and imprisonment for not less than one (1) year nor more than five (5) years.

History. Acts 1957, No. 191, § 18; A.S.A. 1947, § 84-2833; Acts 1987, No. 383, § 5; 1989, No. 238, § 3; 1999, No. 473, § 1.

Amendments. The 1999 amendment substituted "shown live or in any other

manner approved by the commission by television or otherwise" for "simultaneously televised" in (d)(3).

Cross References. Wagering on horse races, § 23-110-405.

CASE NOTES

Cited: In re Armstrong, 217 Bankr. 569 (Bankr. E.D. Ark. 1998).

23-111-509. Disposition of wagering money.

(a) Each franchise holder conducting a racing meet under the provisions of this chapter shall keep its books and records in such manner as to clearly show the total amount of moneys wagered on each race held or conducted at each meet and the disposition of the moneys.

(b)(1) In the calendar year 1995 and each calendar year thereafter, the franchise holder shall withhold and retain for its own use and benefit sixteen percent (16%) of all moneys wagered on live, on-premises races up to and including one hundred twenty-five million dollars (\$125,000,000) and twelve percent (12%) of all moneys wagered on live, on-premises races in excess of one hundred twenty-five million dollars (\$125,000,000).

(2)(A) From the amount withheld and retained by the franchise holder, the franchise holder shall agree that the following credits will be made in the following percentage amounts of all moneys wagered on live, on-premises races up to and including one hundred twenty-

five million dollars (\$125,000,000) per calendar year, which shall be in addition to any other credits or payments:

(i) Seven-eighths of one percent (.875%) to be used by the franchise holder for supplements for increasing purses awarded at races conducted at the franchise holder's facility;

(ii) Three-eighths of one percent (.375%) to the institutions or funds described in §§ 23-111-503 — 23-111-505 and 23-111-515 on a proportionate basis;

(iii) One-half of one percent (0.5%) to be used by the franchise holder for capital improvements to be made by the franchise holder at the racing facility; and

(iv) One-half of one percent (0.5%) to be used by the franchise holder for promotions to be conducted by the franchise holder to encourage patronage and tourism.

(B) These credits will not accrue on moneys wagered on live, on-premises races in excess of one hundred twenty-five million dollars (\$125,000,000) per calendar year.

(C) The Arkansas Racing Commission may audit and verify receipts and expenditures of the franchise holder in determining compliance with this subdivision (b)(2).

(D) If there is a final determination by the commission that any of the credits or payments provided in this subsection have not been used for the purposes specified in this section, the franchise holder shall pay the amount equal to any moneys used for an unauthorized purpose to the commission for the use and benefit of the State of Arkansas.

(3)(A) "Capital improvements" as used in this section shall include all items and expenditures incurred for new construction with related equipment, reconstruction, renovation, reconditioning, and repairing of facilities with related equipment, or for debt service on money borrowed by the franchise holder for those enumerated purposes.

(B) In the case of capital improvements, the commission may use a multiyear approach based on a multiyear program being undertaken by the franchise holder so that accountability for expenditures may be based on expenditures made during the entire multiyear period out of the capital improvement moneys derived during the multiyear period.

(c)(1) In the calendar year 1995 and each calendar year thereafter, for all racing meets conducted by the franchise holder, the franchise holder shall withhold and pay to the commission for the use and benefit of the State of Arkansas, as a privilege tax:

(A) Three percent (3%) of all moneys wagered on live, on-premises races up to and including one hundred twenty-five million dollars (\$125,000,000), together with one-third ($\frac{1}{3}$) of the odd cents or breaks; and

(B) Seven percent (7%) of all moneys wagered on live, on-premises races in excess of one hundred twenty-five million dollars (\$125,000,000), together with one-third ($\frac{1}{3}$) of the odd cents or breaks.

(2)(A) For all races simulcast to the grounds of the franchise holder's Arkansas race track from other race tracks and races conducted in the past and re-broadcast by electronic means and shown on a delayed or replayed basis on the grounds of the franchise holder's Arkansas race track under § 23-111-508(d)(3), the franchise holder shall withhold and pay to the commission for the use and benefit of the State of Arkansas, as a privilege tax, one percent (1%) of all moneys wagered on such races on the grounds of a franchise holder's Arkansas race track.

(B) From the one percent (1%) reduction in the simulcast privilege tax provided for in this section, the franchise holder shall agree that the following credits shall be made in the following percentage amounts, which shall be in addition to any other credits for payments:

(i) One-fourth of one percent (0.25%) to be used by the franchise holder for supplements for increasing purses awarded at races conducted at the franchise holder's facility;

(ii) One-fourth of one percent (0.25%) to be used by the franchise holder for promotions conducted by the franchise holder to encourage patronage and tourism;

(iii) One-fourth of one percent (0.25%) to be used by the franchise holder for capital improvements made by the franchise holder at the racing facility;

(iv) One-fifth of one percent (0.20%) to be used by the franchise holder to directly offset increased simulcasting expenses over and above those incurred during calendar year 2000, including interface fees, host signal fees, licensing fees, and equipment costs related to simulcast. The franchise holder shall provide such information necessary to reflect the increase in simulcast expenses. Any portion of this amount not needed to offset increased simulcast expenses shall be paid to the commission for the use and benefit of the State of Arkansas; and

(v) Five one-hundredths of one percent (0.05%) to be distributed as provided in § 23-111-515(b)(1)(B).

(C)(i) The commission shall seek the assistance of the Department of Finance and Administration to audit and verify receipts and expenditures of the franchise holder in determining compliance with this section. The franchise holder must deliver to the department any documents requested to check and verify compliance with this section within thirty (30) days of receiving a written request for the documents. If the department does not receive the requested documents within the time provided, the Director of the Department of Finance and Administration shall notify the commission, which shall issue an order to show cause why such documents have not been provided.

(ii) The franchise holder shall not be permitted credit for expenditures under this section until the franchise holder submits documentation of each expenditure listing the specific expenditure and the payee of the expenditure and stating in specific terms the benefit created by the expenditure.

(iii) In the case of patronage and tourism promotion and capital improvements, the commission may use a multiyear approach based on a multiyear program's being undertaken by the franchise holder so that accountability for expenditures may be based on expenditures made during the entire multiyear period out of the patronage and tourism promotion and capital improvement moneys derived during the multiyear period, provided that the multiyear period shall not exceed five (5) years, unless the commission makes a specific determination that a longer period is necessary to finance long-term construction projects for the joint benefit of patrons, dogmen, and the franchise holder.

(iv) The franchise holder may seek prior approval of expenditures from the commission for expenditures. The application for such approval must contain the information required by this section. The prior approval will be subject to final verification by the department and approval by the commission that the expenditure meets the requirements of this section.

(3) The licensee shall withhold no more than nineteen percent (19%) of the total moneys wagered in simulcast racing, except when the state of the host race meet allows for withholding a greater percentage, then the licensee shall withhold no more than the percentage allowed by the state of the host meet.

(d) The franchise holder shall withhold and pay to the city or town in which the race track is located two-thirds ($\frac{2}{3}$) of the odd cents or breaks on all moneys wagered on live, on-premises races and on simulcast races, or if the track is not located within the corporate limits of a city or town, then the two-thirds ($\frac{2}{3}$) of the odd cents or breaks on all money wagered on live, on-premises races and on simulcast races shall be paid to the county in which the track is located.

(e)(1) Excepting only the moneys retained for the use and benefit of the franchise holder, the amounts paid to the commission for the use and benefit of the State of Arkansas, and the amount paid to the city, town, or county, as provided in subsection (d) of this section, all moneys received by the franchise holder from wagers shall be paid over to patrons holding winning pari-mutuel tickets, as their respective interests may appear, upon presentation of the tickets.

(2)(A) However, all winning pari-mutuel tickets not presented to the franchise holder for redemption on or before the one hundred eightieth day next following the last racing day of each racing meet hereafter held shall be void.

(B) Of the moneys represented by the void pari-mutuel tickets, the franchise holder shall immediately distribute the proceeds as follows:

(i) One-half ($\frac{1}{2}$) of the amount thereof shall be paid to the treasurer of the county in which the racing track is located for credit to the general fund of the county; and

(ii) One-half ($\frac{1}{2}$) of the amount thereof shall be paid to the treasurer of the city in which the racing track is located and shall be credited to the general fund of the city.

(C) The money shall be used for charitable purposes only, benefiting young females and young males of the city as determined by the mayor and the governing body of the city. It is the intent that the funds shall be made available to and used by the Girls' Club and Boys' Club or similar nonprofit charitable organizations providing recreational youth services benefiting young females and young males of the city.

(f) Breaks or breakage shall be computed as the amount of odd cents remaining in each pari-mutuel pool after redistributions are made in a sum equal to the next lowest multiple of ten cents (10¢). Provided, in the event of a minus pool, the commission shall have the authority to establish the minimum payout on winning wagers.

(g) All moneys due the State of Arkansas by the permit holder under subsection (c) of this section shall be paid to the commission daily, and all amounts due the city, town, or county under subsection (d) of this section shall be paid over to the treasurer of the city, town, or county immediately following the close of the racing meet.

(h) The rate of tax on any additional methods of wagering shall be established by law.

History. Acts 1957, No. 191, § 19; 1965, No. 142, § 2; 1971, No. 382, §§ 1-3; 1973, No. 780, § 2; 1973, No. 879, § 1; 1983, No. 424, § 1; A.S.A. 1947, §§ 84-2834, 84-2834.1; Acts 1987, No. 383, § 4; 1991, No. 850, § 1; 1993, No. 1163, § 1; 1995, No. 342, § 2; 1995, No. 347, § 2; 1999, No. 473, § 2; 1999, No. 1509, §§ 1-3; 1999, No. 1585, § 2; 2001, No. 1837, §§ 1, 2.

Publisher's Notes. Acts 1973, No. 780, § 4, provided that it was the purpose and intent of the act to classify the revenues received by the state from the pari-mutuel tax on horse and dog racing and those represented by void pari-mutuel tickets on horse and dog racing as general revenues.

Acts 1983, No. 424, § 2, provided that the act was intended to be cumulative to the greyhound racing laws of this state.

Acts 1999, No. 1509, § 4, provided: "It is hereby found and determined by the Eighty-Second General Assembly of the State of Arkansas that confusion and conflict has developed over the proper interpretation of the provisions of Arkansas Code § 23-111-509, as amended herein; that these amendments are necessary to clarify and resolve such confusion and conflict, and are consistent with the original intent of past General Assemblies and

with the interpretation accorded by the Department of Finance and Administration and by the Arkansas Racing Commission; and that these amendments therefore shall be retroactive to the dates of their respective, original dates of original enactment."

Amendments. The 1999 amendment by No. 473, in (f), deleted "at all times" following "shall" and added the last sentence.

The 1999 amendment by No. 1509 inserted "on live, on-premises races" throughout the section; inserted "each day at the franchise holder's facility on simulcast races" and "together with one-third ($\frac{1}{3}$) of the odd cents or breaks" throughout (c)(2); in (d), inserted "on all moneys wagered on live, on-premises races and on simulcast races" and "on all money wagered on live, on-premises races and on simulcast races"; and made stylistic changes.

The 1999 amendment by No. 1585 repealed former (b)(2)(A)(iii) and redesignated the remaining subdivisions of (b)(2)(A) accordingly.

The 2001 amendment rewrote (c)(2); and added (h).

Cross References. Wagering on horse races, § 23-110-405.

23-111-510. Admission tax.

(a)(1) Each franchise holder authorized to conduct a race meeting under this chapter shall pay to the Arkansas Racing Commission, for the use and benefit of the State of Arkansas, either ten percent (10%) of all moneys received each day from admissions paid by persons attending the races at the meeting, or the sum of ten cents (10¢) on each and every paid admission, whichever sum is the greater.

(2) All payments provided for in this section shall be made each day of any and every race meeting.

(b)(1) The issuance of all tax-free passes shall be by the franchise holder or its employees or agents. The commission shall have no authority over the issuance or distribution of such passes.

(2) It shall be unlawful for any person, corporation, firm, partnership, or any other entity, to sell or offer for sale, for any consideration, any tax-free pass issued by the commission for general admission to the racing facility of any franchise holder.

(3) Any person, corporation, firm, partnership, or other entity, who sells or offers for sale tax-free passes shall, upon conviction, be guilty of a Class B misdemeanor. The penalty for each such offense shall be a fine in an amount not to exceed five hundred dollars (\$500) or imprisonment for a period of time not to exceed ninety (90) days, or both.

History. Acts 1957, No. 191, § 20; A.S.A. 1947, § 84-2835; Acts 1991, No. 664, § 2; 1991, No. 1020, § 2; 1999, No. 1508, §§ 11, 12.

Amendments. The 1999 amendment repealed the version of this section, as amended by Acts 1991, No. 664; and rewrote (b)(1).

CASE NOTES**Passes.**

A tax free pass is simply a substitute for the price of admission and nothing more. *Griffin v. Southland Racing Corp.*, 236 Ark. 872, 370 S.W.2d 429 (1963).

Track owner, in absence of civil rights issue, was entitled to exclude prospective

patron from track because he thought such person to be undesirable even though such person held unrevoked pass from Racing Commission which had been given to him as a gift. *Griffin v. Southland Racing Corp.*, 236 Ark. 872, 370 S.W.2d 429 (1963).

23-111-511. Record keeping by franchise holder — Audit.

(a) Every franchise holder conducting race meetings under this chapter shall keep its books and records so as to clearly show the true number of admissions, the total amount of money contributed to each pari-mutuel pool on each race separately, and the amount of money received daily from admission fees.

(b) Within sixty (60) days after the conclusion of every race meeting, the franchise holder shall submit to the Arkansas Racing Commission a complete audit of the receipts and admissions.

History. Acts 1957, No. 191, § 21; A.S.A. 1947, § 84-2836.

23-111-512. Commission's access to meets, books, records, etc.

(a) The Arkansas Racing Commission shall at all times have access to any portion of the space or enclosure where a race meeting is held, including the space or enclosure where the pari-mutuel or certificate system of wagering is conducted or supervised at any racing meet, for the purpose of ascertaining whether or not the franchise holder is retaining only the commission provided in this chapter.

(b) The commission shall have full and free access to the books, records, machines, and papers pertaining to the pari-mutuel or certificate method of wagering, and admission tickets.

(c) The commission may also at any time investigate and ascertain whether or not any of the provisions of this chapter or the rules and regulations of the commission are being violated at the race track or enclosure.

History. Acts 1957, No. 191, § 23;
A.S.A. 1947, § 84-2838.

23-111-513. Failure to pay tax.

(a) Any franchise holder failing or refusing to pay the amount found to be due the Arkansas Racing Commission from any tax provided for or imposed by this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five thousand dollars (\$5,000) in addition to the amount due from the franchise holder as provided in this chapter.

(b) All fines paid into any court of this state by a franchise holder found guilty of violating this section shall be paid over by the clerk of the court to the commission within ten (10) days after the fines shall have been paid to the clerk by the franchise holder.

History. Acts 1957, No. 191, § 22;
A.S.A. 1947, § 84-2837.

23-111-514. Franchise holder required to give bond.

Every franchise holder to which a license may be granted under this chapter at its own cost and expense shall, before the license is delivered, give a bond, in the penal sum of ten thousand dollars (\$10,000) payable to the commission with a surety to be approved by the Arkansas Racing Commission, conditioned to faithfully make the payments to the commission provided for in this chapter, and keep its books and records and make reports provided in this chapter and to conduct its race meeting in conformity with the provisions of this chapter.

History. Acts 1957, No. 191, § 22;
A.S.A. 1947, § 84-2837.

23-111-515. Additional racing days for the benefit of small municipalities and community colleges.

(a)(1) The Arkansas Racing Commission is authorized to allow each dog racing franchise holder to conduct six (6) additional days of racing during each twelve-month period.

(2) The additional days of racing may be divided between each of the two (2) racing meets allowed by this section, or all the additional days of racing may be added to a single racing meet as determined by the commission.

(3) In the event the additional days allowed by the commission fall upon a Saturday or Saturdays, then the franchise holder, at its option, may conduct daylight racing as authorized for a regular racing meet.

(b)(1) The franchise holder shall distribute the net proceeds, as defined in subdivision (b)(2) of this section, from the additional days of dog racing as follows:

(A) Twenty-five percent (25%) thereof shall be remitted at the end of each racing meet at which such additional days of racing are conducted to the various municipalities in the county where the dog racing meet is held which have a population of fewer than five thousand (5,000) inhabitants according to the most recent federal census, with each such municipality to receive an equal share of the funds; and

(B) Seventy-five percent (75%) of the proceeds shall be deposited with the Treasurer of State as special revenues and credited to an institution of higher education fund in the county in which the dog racing track is located. Such funds shall be considered local taxes for the purposes of § 6-61-601.

(2) Net proceeds derived from the additional days of dog racing shall be all revenue derived from the pari-mutuel wagering at the dog racing track during the additional days of racing, less the amount of the purses paid by the franchise holder.

(c) The commission shall establish appropriate rules and regulations to assure compliance with the provisions of this section and shall audit and verify all receipts and expenditures of the franchise holder in determining compliance with this section.

History. Acts 1993, No. 879, §§ 1, 2, 4, 5.

A.C.R.C. Notes. References to "this chapter" in subchapters 1-4 and §§ 23-

111-501 — 23-111-514 may not apply to this section which was enacted subsequently.

23-111-516. Health insurance.

From the amount withheld and retained by the dog racing franchise holder pursuant to § 23-111-509, the franchise holder shall set aside for the use and benefit of his or her employees for the purpose of maintaining health insurance benefits, one half of one percent (0.5%) of all moneys wagered on live racing and on racing performances simultaneously televised by the franchise holder but conducted at another

race track facility. This set-aside shall be in addition to any other credits or payments made by the dog racing franchise holder in accordance to law. Any surplus funds shall be carried forward the next calendar year and shall not be used for any other purposes. However, the amount set aside shall be applied only to the first one hundred twenty-five million dollars (\$125,000,000) of the amount of moneys wagered per calendar year.

History. Acts 1999, No. 1585, § 1. 111-501 — 23-111-514 may not apply to this section which was enacted subsequently.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-4 and §§ 23-

23-111-517. Disposition of pari-mutuel tax revenue.

(a) Each year, the first eighty-five thousand dollars (\$85,000) of the pari-mutuel tax revenue derived from § 23-111-505(a) shall be remitted directly to Mid-South Community College and shall be used by the college for facilities, programming, and personnel in the support of a nursing program.

(b) The revenue received by the college under this section shall be considered local taxes for the purposes of § 6-61-601.

History. Acts 2001, No. 1488, § 1. the Chief Fiscal Officer shall notify the Treasurer of State and Auditor of State of the transfer.”

A.C.R.C. Notes. Acts 2001, No. 1488, § 2, provided: “One Hundred Thousand dollars (\$100,000) of the balance of the Indigent Patient’s Fund on the effective date of this act shall be transferred by the Chief Fiscal Officer of the State to the Mid-South Community College Fund and

References to “this chapter” in subchapters 1-4 and §§ 23-111-501 — 23-111-514 may not apply to this section, which was enacted subsequently.

CHAPTER 112

ARKANSAS MOTOR VEHICLE COMMISSION ACT

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS MOTOR VEHICLE COMMISSION.
3. LICENSING AND REGULATION.
4. UNLAWFUL PRACTICES.
5. HEARINGS AND APPEALS.
6. USED MOTOR VEHICLE BUYERS PROTECTION.
7. DAMAGE TO MOTOR VEHICLES WHILE IN TRANSIT.

A.C.R.C. Notes. References to “this chapter” in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to §§ 23-112-312 and 23-112-313 and subchapters 6 and 7 which were enacted subsequently.

Effective Dates. Acts 1975, No. 388, § 13: July 1, 1975.

RESEARCH REFERENCES

Am. Jur. 7A Am. Jur. 2d, Auto., § 150
et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

23-112-101. Title.

23-112-102. Legislative findings — Purpose.

23-112-103. Definitions.

SECTION.

23-112-104. Injunction.

23-112-105. Civil damages.

23-112-106. Enforcement.

Effective Dates. Acts 1977, No. 838, § 3: Mar. 28, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission does not presently have adequate authority to compel compliance with the Arkansas Motor Vehicle Commission Act and Commission rules and regulations and that authority to seek injunctive relief against violations of the Act is necessary to the accomplishment of the Commission's statutory responsibility to license and regulate the new motor vehicle industry in this State. Therefore, an emergency is found to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, it shall take effect upon the date of its passage."

Acts 1985, No. 1032, § 9, and No. 1058, § 9: Apr. 17, 1985. Emergency clauses provided: "It is hereby found and determined by the General Assembly that neither the Arkansas Motor Vehicle Commission nor other board or commission presently have power to license and regulate dealers, salesmen, wholesalers who deal in used motor vehicles, motor vehicles lessors or auto auctions and that authority to regulate the aforesaid functions of the motor vehicle industry is necessary to prevent and remedy public injury in motor vehicle transactions. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 620, § 4: Apr. 4, 1987.

Emergency clause provided: "It is hereby found and determined by the General Assembly that motor vehicles with less than four wheels should be licensed beginning July 1, 1987, and that such licenses should expire December 31 of each year unless the Revenue Commissioner provides to the contrary by regulation. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 65, § 11: Feb. 17, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission Act does not adequately regulate the actions of certain importers and others who purchase motor vehicles for sale to distributors and that such regulations are needed to protect distributors and the public from unfair, discriminatory and coercive practices. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 678, § 7: Mar. 20, 1989. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly of the State of Arkansas that there is some question as to the ability of new car dealers in this state to meet the special order needs of their customers and therefore the availability and authority clarified and granted in this act is immediately necessary for the protec-

tion and preservation of the health, safety, and welfare of the people. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 383, § 9: Mar. 8, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that due to recent resignations of members, the Motor Vehicle Commission is unable to perform the duties assigned to it by law; that the consumer has not been adequately represented on the Commission; and that the changes in the membership and procedures of the Commission provided for in this Act are necessary to prevent injury to the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 568, § 1: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain license fees charged by the Arkansas Motor Vehicle Commission need to be increased; that some of these fees are due on July 1 of each year; that unless this act is effective on July 1, 1995 those fees will not be increased; and that for the effective administration of this act an effective date of July 1, 1995 is necessary. Therefore, an emergency is

hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on July 1, 1995."

Acts 1999, No. 1042, § 16: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the provisions of this act are of essential importance to correct the persistent unfair treatment of dealers by manufacturers of the same line, in matters such as manufacturers' systematic denial of dealers' warranty and recall claims, manufacturers' offering certain models to their franchised dealers on an arbitrary and unfair basis; that this act is essential to protect the stability and viability of these business owners in this state and the ability of consumers to purchase automobiles without undue interference from manufacturers; and other similar matters. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

CASE NOTES

Applicability.

The Motor Vehicle Act does not cover automobile dealer franchise agreements executed before its effective date. *Chrysler Motors Corp. v. Thomas Auto Co.*, 939 F.2d 538 (8th Cir. 1991).

Where the Motor Vehicle Act impinged upon plaintiff's existing rights and im-

posed new duties upon plaintiff, applying the Act to the termination of its dealer agreement with defendant would constitute an impermissible retroactive application of the Act. *Chrysler Motors Corp. v. Thomas Auto Co.*, 939 F.2d 538 (8th Cir. 1991).

23-112-101. Title.

This chapter shall be known and may be cited as the "Arkansas Motor Vehicle Commission Act".

History. Acts 1975, No. 388, § 1; A.S.A. 1947, § 75-2301.

CASE NOTES

Cited: Arkansas Motor Vehicle Comm'n v. Cliff Peck Chevrolet, Inc., 277 Ark. 185, 640 S.W.2d 453 (1982); McElroy, 313 Ark. 394, 855 S.W.2d 310 (1993); Hankins v.

23-112-102. Legislative findings — Purpose.

(a) The General Assembly finds and declares that the distribution and sale of motor vehicles in Arkansas vitally affects the general economy of the state and the public interest and the public welfare.

(b) The General Assembly further finds and declares that it is necessary, in the exercise of its police power, to regulate and to license motor vehicle manufacturers, factory branches and divisions, distributors, distributor branches and divisions, distributor representatives, new motor vehicle dealers, and salespersons doing business in Arkansas in order to:

(1) Prevent frauds, unfair practices, discrimination, impositions, and other abuses upon the citizens of Arkansas;

(2) Avoid undue control of the independent motor vehicle dealer by motor vehicle manufacturing and distributing organizations;

(3) Foster and keep alive vigorous and healthy competition;

(4) Prevent the creation or perpetuation of monopolies;

(5) Prevent the practice of requiring the buying of special features, accessories, special models, appliances, and equipment not desired by a motor vehicle dealer or the ultimate purchaser;

(6) Prevent false and misleading advertising;

(7) Promote and keep alive a sound system of distribution of motor vehicles to the public; and

(8) Promote the public safety and welfare.

History. Acts 1975, No. 388, § 2; A.S.A. 1947, § 75-2302; Acts 1995, No. 568, § 1.

CASE NOTES

Cited: Arkansas Motor Vehicle Comm'n v. Cliff Peck Chevrolet, Inc., 277 Ark. 185, 640 S.W.2d 453 (1982).

23-112-103. Definitions.

As used in this chapter:

(1) "Advertisement" means an oral, written, telecommunicated, graphic, pictorial, or other statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, Internet, or other publication or contained in a notice, sign, poster, display, circular, pamphlet, letter, or flyer, or made via radio, television, or any other medium;

(2) "All-terrain vehicle" means a motor vehicle that:

(A) Is an off-highway vehicle:

(i) Fifty inches (50") or less in width, having a dry weight of eight hundred pounds (800 lbs.) or less, and traveling on three (3) or more low pressure tires, with a seat designed to be straddled by the operator, a Class 1 all-terrain vehicle; or

(ii) With a width that exceeds fifty inches (50") or having a dry weight that exceeds eight hundred pounds (800 lbs.), traveling on four (4) or more low-profile, low-pressure tires, and having a bench seat, a Class 2 all-terrain vehicle;

(B) Has a seat for the operator and any passenger and handlebars or other steering mechanism for control; and

(C) Is used for any purpose, including, but not limited to, off-road, amphibious, or recreational travel;

(3) "Auto auction" means:

(A) Any person who operates or provides a place of business or facilities for the wholesale exchange of motor vehicles by and between duly licensed motor vehicle dealers;

(B) Any motor vehicle dealer licensed to sell used motor vehicles, selling motor vehicles using an auction format but not on consignment; and

(C) Any person who provides the facilities for or is in the business of selling motor vehicles in an auction format;

(4) "Branch location" means a secondary location:

(A) Identified in a license issued by the Arkansas Motor Vehicle Commission to a motor vehicle dealer; and

(B) Which is an established place of business other than the licensed location;

(5) "Broker" means a person who for any valuable consideration, whether received directly or indirectly, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

(A) A dealer or bona fide employee of a new motor vehicle dealer when acting on behalf of a new motor vehicle dealer;

(B) A representative or bona fide employee of a manufacturer, factory branch, or factory representative when acting on behalf of a manufacturer, factory branch, or factory representative;

(C) A representative or bona fide employee of a distributor or distributor branch when acting on behalf of a distributor or distributor branch; or

(D) At any point in the transaction, the bona fide owner of the vehicle involved in the transaction;

(6) "Coerce" means the failure to act in good faith in performing or complying with any terms or provisions of the franchise or agreement;

(7) "Commission" means the Arkansas Motor Vehicle Commission created by this chapter;

(8) "Conversion" means a motor vehicle other than an ambulance or firefighting vehicle that is substantially modified by a person, firm, or corporation other than the manufacturer or distributor of the chassis of the motor vehicle and which has not been the subject of a retail sale;

(9) "Distributor" means any person, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives;

(10) "Distributor branch" means a branch or division office similarly maintained by a distributor for the same purposes a factory branch or division is maintained;

(11) "Distributor representative" means a representative similarly employed by a distributor or distributor branch;

(12) "Factory branch" means a branch or division office maintained by a person, firm, association, corporation, or trust who manufactures or assembles new motor vehicles for sale to distributors, to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives;

(13) "Factory representative" means a representative employed by a:

(A) Person, firm, association, corporation, or trust who manufactures or assembles new motor vehicles; or

(B) Factory branch, for the purpose of making or promoting the sale of its new motor vehicles or for supervising or contacting its dealers or prospective dealers;

(14) "Franchise" means one (1) or more contracts between a franchised dealer as franchisee and either a manufacturer or a distributor, importer, second-stage manufacturer, or converter as franchiser under which:

(A) The franchisee is granted the right to sell and service new motor vehicles manufactured or distributed by the franchiser;

(B) The franchisee as an independent business is a component of the franchiser's distribution system;

(C) The franchise is substantially associated with the franchiser's trademark, trade name, or commercial symbol;

(D) The franchisee's business is substantially reliant on the franchiser for a continued supply of motor vehicles, parts, or accessories for the conduct of its business; or

(E)(i) Any right, duty, or obligation granted or imposed by this chapter is affected.

(ii) "Franchise" includes a written communication from a franchiser to a franchisee by which a duty is imposed upon the franchisee;

(15) "Good faith" means the duty of each party to any franchise and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one (1) party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party;

(16) "Licensed location" means the address designated as the primary business address of the motor vehicle dealer on the application submitted for approval of licensure;

(17) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles;

(18) "Motor vehicle" means any motor-driven vehicle having two (2) or more wheels, including, but not limited to, all-terrain vehicles,

automobiles, trucks, motorcycles, motor-driven cycles, motor scooters, and motor homes;

(19)(A)(i) "Motor vehicle dealer" means any person engaged in the business of selling, offering to sell, soliciting, or advertising the sale of motor vehicles, regardless of the medium used, or possessing motor vehicles for the purpose of resale, either on his or her own account or on behalf of another, either as his or her primary business or incidental thereto.

(ii) "Motor vehicle dealer" includes any person engaged in the business of selling, offering to sell, soliciting, or advertising the sale, regardless of the medium used, of commercial buses, school buses, or other multipassenger motor vehicles, or possessing them for the purpose of resale.

(B) "Motor vehicle dealer" does not include:

(i) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under judgment, decree, or order of any court;

(ii) Public officers while performing their duties as officers;

(iii) Employees of persons, corporations, or associations enumerated in subdivision (19)(B)(i) of this section when engaged in the specific performance of their duties as employees;

(iv) Specialty vehicle dealers;

(v) Financial institutions engaged in the leasing of motor vehicles;

or

(vi) Used motor vehicle dealers licensed by the state under § 23-112-601 et seq.;

(20) "Motor vehicle lessor" means any person not excluded by subdivision (19) of this section engaged in the motor vehicle leasing or rental business;

(21) "Motor vehicle salesperson" means any person who:

(A) Is employed as a salesperson by a motor vehicle dealer whose duties include the selling or offering for sale of motor vehicles;

(B) For compensation of any kind, acts as a salesperson, agent, or representative of a motor vehicle dealer;

(C) Attempts to or in fact negotiates a sale of a motor vehicle owned partially or entirely by a motor vehicle dealer; and

(D) Uses the financial resources, line of credit, or floor plan of a motor vehicle dealer to purchase, sell, or exchange any interest in a motor vehicle;

(22) "New motor vehicle" means any motor vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or franchised new motor vehicle dealer to an ultimate purchaser;

(23) "Off premises" means a location other than the address designated as the licensed location;

(24) "Person" means and includes, individually and collectively, individuals, firms, partnerships, copartnerships, associations, corporations, trusts, or any other form of business enterprise, or any legal entity;

(25)(A) "Relevant market area" means the area within a radius surrounding an existing dealer or the area of responsibility defined in the franchise and on file in the commission office, whichever is greater.

(B)(i) For all licensed new motor vehicle dealers, excluding motorcycles, motorized cycles, and motor-driven all-terrain vehicles, which include two-wheeled, three-wheeled, four-wheeled, six-wheeled, or eight-wheeled motorcycles, motorized cycles, and motor-driven all-terrain vehicles, the relevant market area shall be a radius of twenty (20) miles.

(ii) However, where a manufacturer is seeking to establish an additional new motor vehicle dealer and there are one (1) or more existing new motor vehicle dealers of the same line make within a ten-mile radius of the proposed dealer site, the relevant market area shall in all instances be the area within a radius of ten (10) miles around an existing dealer.

(C) For all licensed new motor vehicle dealers of motorcycles, motorized cycles, and motor-driven all-terrain vehicles, which include two-wheeled, three-wheeled, four-wheeled, six-wheeled, or eight-wheeled motorcycles, motorized cycles, and motor-driven all-terrain vehicles, the relevant market area shall in all instances be the area within a radius of thirty (30) miles around an existing dealer or the area of responsibility defined in the franchise and on file in the commission office, whichever is greater;

(26) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a new motor vehicle to an ultimate purchaser for use as a consumer;

(27) "Second-stage manufacturer" or "converter" means a person, firm, or corporation who, prior to retail sale of a motor vehicle:

(A) Assembles, installs, or affixes a body, cab, or special equipment to a chassis; or

(B) Substantially adds to, subtracts from, or modifies a previously assembled or manufactured motor vehicle;

(28)(A) "Specialty vehicle" means a motor vehicle manufactured by a second-stage manufacturer by purchasing motor vehicle components, for example, frame and drive train, and completing the manufacture of finished motor vehicles for the purpose of resale, with the primary manufacturer warranty unimpaired, to a limited commercial market rather than the consuming public.

(B) "Specialty vehicles" includes garbage trucks, ambulances, fire trucks, limousines, hearses, and other similar limited-purpose vehicles as the commission may by regulation provide;

(29) "Temporary permit" means a license issued for one (1) week or less to a motor vehicle dealer who is licensed in another state for the purpose of displaying, offering to sell, selling, and soliciting the sales of motor vehicles at the time and place designated by the commission and only at an approved motor vehicle show in this state;

(30)(A) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a motor vehicle dealer purchasing

in his or her capacity as a dealer, who in good faith purchases the new motor vehicle for purposes other than resale.

(B) "Ultimate purchaser" shall not include a person who purchases a vehicle for purposes of altering or remanufacturing the motor vehicle for future resale;

(31)(A) "Used motor vehicle" means any motor vehicle that has previously been sold, bargained, exchanged, given away, or the title thereto transferred from the person or corporation who first took title from the manufacturer, distributor, dealer, or agents thereof.

(B) In the event of a transfer that is reflected on the statement of origin from the original franchise dealer to any other dealer, individual, or corporation other than a franchise dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle;

(32) "Used motor vehicle dealer" means any person, wholesaler, or auto auctioneer who, for a commission or with the intent to make a profit or gain of money or other thing of value:

(A) Sells, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle; or

(B) Is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not the used motor vehicles are owned by the person; and

(33)(A) "Wholesaler" means any person, resident or nonresident, not excluded by subdivision (19) of this section, who, in whole or in part, sells used motor vehicles to motor vehicle dealers or purchases used vehicles for the purpose of resale.

(B) However, motor vehicle dealers who, incidental to their primary business, sell motor vehicles to other dealers are not considered wholesalers because of the incidental sales.

History. Acts 1975, No. 388, § 3; 1985, No. 1032, § 1; 1985, No. 1058, § 1; A.S.A. 1947, § 75-2303; Acts 1987, No. 620, § 1; 1987, No. 645, §§ 1, 2; 1989, No. 65, §§ 1-3; 1989, No. 509, § 1; 1991, No. 411, § 3; 1991, No. 890, §§ 1-3; 1993, No. 383, § 5; 1997, No. 1154, §§ 3-7; 1999, No. 1042, § 1; 2001, No. 1053, § 1; 2003, No. 1098, §§ 1, 2.

Amendments. The 1999 amendment

rearranged the subdivisions in alphabetical order; inserted "or registration" in (14); deleted the former last sentence in (3) and (12); inserted "franchised new motor vehicle" in (18); rewrote (20); and made stylistic changes.

The 2001 amendment rewrote this section.

The 2003 amendment rewrote (2); and inserted "motor scooters" in (18).

RESEARCH REFERENCES

UALR L.J. Survey, Contracts, 12 UALR L.J. 611.
Survey of Legislation, 2001 Arkansas

General Assembly, Insurance Law, 24 UALR L.J. 577.

CASE NOTES

Motor Vehicles.

School buses are "motor vehicles" within the meaning of subdivision (1). *Walt Bennett Ford, Inc. v. Pulaski County Special Sch. Dist.*, 274 Ark. 208, 624 S.W.2d 426 (1981).

Cited: *Arkansas Motor Vehicle Comm'n v. Cantrell Marine, Inc.*, 305 Ark. 449, 808 S.W.2d 765 (1991).

23-112-104. Injunction.

(a) The Arkansas Motor Vehicle Commission shall be entitled to seek an injunction upon affidavit in the circuit court for the county in which the commission's office is located to prevent any person, firm, partnership, association, corporation, or legal entity from violating any provision of this chapter or any rule or regulation promulgated by the commission.

(b) The commission shall not be required to execute or give bond for costs, indemnity, or stay or to give security as a condition to the issuance of a restraining order or injunction, either temporary or permanent.

History. Acts 1977, No. 838, § 1; A.S.A. 1947, § 75-2312; Acts 1997, No. 1154, § 8.

Cross References. Injunctions, procedure, § 16-113-301 et seq.

23-112-105. Civil damages.

Any licensee suffering pecuniary loss because of any willful failure by any other licensee to comply with any provision of this chapter, other than a new automobile or truck dealer's failure to comply with § 23-112-301(d)(1)-(3) or with any rule or regulation promulgated by the Arkansas Motor Vehicle Commission under authority vested in it by this chapter, may recover reasonable damages and attorney's fees therefor in any court of competent jurisdiction.

History. Acts 1975, No. 388, § 9; A.S.A. 1947, § 75-2309; Acts 1989, No. 678, § 3.

23-112-106. Enforcement.

(a) The Arkansas Motor Vehicle Commission may enter orders that direct and command compliance with this chapter and regulations under this chapter if any of the following conditions have been met:

(1) The commission has conducted a hearing within sixty (60) days on the matter;

(2) The commission has made written findings that the public interest and welfare require the person or entity against whom the commission is acting to take the specified action; or

(3) The commission finds that the current civil or administrative penalties are insufficient.

(b) The commission may enforce its findings and conclusions upon entry of an order under subsection (a) of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 62, § 1.

SUBCHAPTER 2 — ARKANSAS MOTOR VEHICLE COMMISSION

SECTION.	SECTION.
23-112-201. Arkansas Motor Vehicle Commission — Creation — Members — Officers.	23-112-203. Executive director — Employees — Office.
23-112-202. Proceedings — Bond.	23-112-204. Rules and regulations.
	23-112-205. Disposition of funds.

Effective Dates. Acts 1981, No. 717, § 3: Mar. 25, 1981. Emergency clause provided: “It is hereby found and determined by the General Assembly that regulatory boards and commissions covered by Act 113 of 1977, exist for the singular purpose of protecting the public health and welfare; that it is necessary and proper that the public be represented on such boards and commissions; that the operations of such boards and commissions have a profound effect on the daily lives of all Arkansas; and that the public’s voice should not be muted on any question coming before such public bodies. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1983, No. 131, § 6, and No. 135, § 6: Feb. 10, 1983. Emergency clauses provided: “It is hereby found and determined by the General Assembly that state boards and commissions exist for the singular purpose of protecting the public health and welfare; that citizens over 60 years of age represent a significant percentage of the population; that it is necessary and proper that the older population be represented on such boards and commissions; that the operations of the boards and commissions have a profound effect on the daily lives of older Arkansans; and that the public voice of older citizens should not be muted as to questions coming before such bodies. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 747, § 3: Apr. 3, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that the members of the Motor Vehicle Commission receive an inadequate amount of per diem which has not changed since 1975; that the per diem allowance should be increased to a reasonable level; and that the Commission members will not receive adequate per diem until this Act becomes effective. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1985, No. 1032, § 9, and No. 1058, § 9: Apr. 17, 1985. Emergency clauses provided: “It is hereby found and determined by the General Assembly that neither the Arkansas Motor Vehicle Commission nor other board or commission presently have power to license and regulate dealers, salesmen, wholesalers who deal in used motor vehicles, motor vehicles lessors or auto auctions and that authority to regulate the aforesaid functions of the motor vehicle industry is necessary to prevent and remedy public injury in motor vehicle transactions. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1989 (1st Ex. Sess.), No. 169, § 9: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that

the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 383, § 9: Mar. 8, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that due to recent resignations of members, the Motor Vehicle Commission is unable to perform the duties assigned to it by law; that the consumer has not been adequately represented on the Commission; and that the changes in the membership and procedures of the Commission provided for in this Act are necessary to prevent injury to the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 568, § 1: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that certain license fees charged by the Arkansas Motor Vehicle Commission need to be increased; that some of these fees are due on July 1 of each year; that unless this act is effective on July 1, 1995 those fees will not be increased; and that for the effective administration of this act an effective date of July 1, 1995 is necessary. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on July 1, 1995."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-112-201. Arkansas Motor Vehicle Commission — Creation — Members — Officers.

(a) There is created the Arkansas Motor Vehicle Commission, hereinafter referred to as the commission, to be composed of nine (9) members to be appointed by the Governor for terms of seven (7) years, subject to confirmation by the Senate.

(b)(1) One (1) commissioner shall be appointed from each of the four (4) congressional districts of the state as constituted July 1, 1975, and five (5) members of the commission, including the consumer representative and the representative of the elderly, shall be appointed from the state at large.

(2)(A) Four (4) members of the commission shall be licensees or shall be qualified as licensees under the provisions of this chapter at the time of their appointment.

(B) Five (5) members of the commission shall be appointed from the public at large, including the consumer representative and the representative of the elderly.

(C) No more than four (4) members of the commission shall at any time be licensees under this chapter or have any financial interest in, or be an officer or an employee of, a licensee of this chapter, and at least one (1) of them shall be licensed as a dealer of franchise motorcycles.

(3) The consumer representative and the representative of the elderly shall not be actively engaged in or retired from the businesses regulated by this chapter. The two (2) positions may not be held by the same person. Both shall be full voting members. The representative of the elderly shall be sixty (60) years of age or older.

(4) Each of the members appointed shall be a citizen of the United States, a resident of the State of Arkansas, and a qualified elector of the jurisdiction from which appointed, and each shall be of good moral character.

(c) In the event a vacancy on the commission occurs due to death, resignation, or other reason, the vacancy shall be filled for the unexpired portion of the term by appointment of the Governor, subject to confirmation by the Senate, of a person meeting the same qualifications required for the initial appointment.

(d) Each commission member shall serve until his or her successor is appointed and qualified.

(e) The commission shall select by majority vote of its members one (1) of its members as a chair, one (1) as a vice chair, and one (1) as a secretary.

(f)(1) The Chair of the Arkansas Motor Vehicle Commission and members of the commission may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

(2) The chair shall require itemized statements of all reimbursable expenses and shall audit the statements or cause them to be audited before approving them for payment.

History. Acts 1975, No. 388, § 4; 1977, No. 113, §§ 1-3; 1981, No. 717, § 2; 1983, No. 131, §§ 1-3, 5; 1983, No. 135, §§ 1-3, 5; 1985, No. 747, § 1; 1985, No. 1032, § 2; 1985, No. 1058, § 2; A.S.A. 1947, §§ 6-617 — 6-619, 6-623 — 6-626, 75-2304; Acts 1989 (1st Ex. Sess.), No. 169, § 6; 1993, No. 383, § 1; 1997, No. 250, § 227.

Publisher's Notes. The terms of the members of the Arkansas Motor Vehicle Commission are arranged so that one (1) term expires on January 14 of every year.

23-112-202. Proceedings — Bond.

(a) The Arkansas Motor Vehicle Commission shall meet at Little Rock and complete its organization immediately after the entire membership thereof has been appointed and has qualified.

(b) Before entering upon the discharge of the duties of his or her office, the Chair of the Arkansas Motor Vehicle Commission and each member of the commission shall take and subscribe to the oath of office

prescribed by the Constitution of Arkansas and shall file this oath in the office of the Secretary of State.

(c)(1) The commission shall purchase either a blanket position honesty or faithful performance bond from some surety company authorized to do business in this state. This bond shall be in the penal sum of ten thousand dollars (\$10,000), made payable to the State of Arkansas, conditioned for the honest and faithful performance of the duties of the chair and each member of the commission, the executive director of the commission, and all other employees of the commission, the bond to be approved by the Governor and filed in the office of the Secretary of State.

(2) The commission shall keep the bond in force at all times from and after the date the commission is organized.

(d) A majority of the commission shall constitute a quorum for the transaction of any business.

(e) The commission shall adopt and use a common seal for the authentication of its records and orders.

(f) The commission shall hold all of its regular monthly meetings in its office at Little Rock, but upon approval of a majority of its members, may hold special meetings and the hearings provided for under §§ 23-112-501 — 23-112-509 at any time and place within the State of Arkansas.

History. Acts 1975, No. 388, § 4; A.S.A. 1947, § 75-2304; Acts 1993, No. 383, § 2; 1995, No. 568, § 2.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond

program for public officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. Subsection (c) may again become effective upon cessation of coverage under that program. See § 21-2-703.

23-112-203. Executive director — Employees — Office.

(a)(1) The Arkansas Motor Vehicle Commission shall appoint a qualified person to serve as executive director thereof, to serve at the pleasure of the commission, and shall fix his or her salary and shall define and prescribe the duties.

(2) The Executive Director of the Arkansas Motor Vehicle Commission shall be in charge of the commission's office and shall devote such time to the duties thereof as may be necessary.

(3) The duties shall include, but shall not be limited to, the collection of all fees and charges under the provisions of this chapter, keeping a record of all proceedings of the commission, and keeping an accurate account of all moneys received and disbursed by the commission, all of which records shall be considered as public records.

(b) The commission may employ such clerical and professional help and incur such expenses as may be reasonably necessary for the proper discharge of its duties under this chapter.

(c) Except as provided in this chapter, the commission shall maintain its office and transact its business at Little Rock.

History. Acts 1975, No. 388, § 4; A.S.A. 1947, § 75-2304; Acts 1995, No. 568, § 3.

23-112-204. Rules and regulations.

The Arkansas Motor Vehicle Commission shall have power to prescribe, issue, amend, and rescind, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., such reasonable rules and regulations as may be reasonably necessary or appropriate to carry out the provisions of this chapter.

History. Acts 1975, No. 388, § 4; 1985, No. 1032, § 2; 1985, No. 1058, § 2; A.S.A. 1947, § 75-2304.

23-112-205. Disposition of funds.

(a) All funds received by the Arkansas Motor Vehicle Commission shall be deposited in the State Treasury as special revenues to the credit of a special fund to be known as the “Motor Vehicle Commission Fund”.

(b) All expenses incurred in the organization, maintenance, and operation of the commission shall be paid from the special fund, and the expenditure of all funds shall be subject to the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the Arkansas Procurement Law, § 19-11-201 et seq., and other applicable fiscal laws.

(c) The receipts and disbursements of the commission shall be audited annually by the Legislative Auditor.

History. Acts 1975, No. 388, § 4; A.S.A. 1947, § 75-2304.

SUBCHAPTER 3 — LICENSING AND REGULATION

SECTION.	SECTION.
23-112-301. License required.	23-112-307. Expiration of license.
23-112-302. Application for license.	23-112-308. Denial, revocation, and suspension.
23-112-303. Application fees.	23-112-309. Monetary penalty in lieu of suspension or revocation of license.
23-112-304. Issuance of license — Change of location — Change of business or corporate name, structure, or DBA name — Dealers, manufacturers, distributors, etc.	23-112-310. Delivery, preparation, and warranty obligations.
23-112-305. Display of license — Change of employer — Factory representative and distributor representative.	23-112-311. Addition or relocation of new motor vehicle dealer.
23-112-306. Display of license — Change of employer — Salesperson.	23-112-312. License reciprocity with other states.
	23-112-313. Warranty agreements.
	23-112-314. Civil penalty.
	23-112-315. Motor vehicle dealer documentary fees — Disclosures.

A.C.R.C. Notes. References to “this chapter” in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to §§ 23-112-312 and 23-112-313 which were enacted subsequently.

References to “this subchapter” in §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to §§ 23-112-312 and 23-112-313 which were enacted subsequently.

Effective Dates. Acts 1977, No. 838, § 3: approved Mar. 28, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission does not presently have adequate authority to compel compliance with the Arkansas Motor Vehicle Commission Act and Commission rules and regulations and that authority to seek injunctive relief against violations of the Act is necessary to the accomplishment of the Commission’s statutory responsibility to license and regulate the new motor vehicle industry in this State. Therefore, an emergency is found to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, it shall take effect upon the date of its passage.”

Acts 1985, No. 1032, § 9, and No. 1058, § 9: Apr. 17, 1985. Emergency clauses provided: “It is hereby found and determined by the General Assembly that neither the Arkansas Motor Vehicle Commission nor other board or commission presently have power to license and regulate dealers, salesmen, wholesalers who deal in used motor vehicles, motor vehicles lessors or auto auctions and that authority to regulate the aforesaid functions of the motor vehicle industry is necessary to prevent and remedy public injury in motor vehicle transactions. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1987, No. 620, § 4: Apr. 4, 1987. Emergency clause provided: “It is hereby found and determined by the General Assembly that motor vehicles with less than four wheels should be licensed beginning July 1, 1987, and that such licenses should expire December 31 of each year unless the Revenue Commissioner pro-

vides to the contrary by regulation. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1989, No. 678, § 7: Mar. 20, 1989. Emergency clause provided: “It has been found and it is hereby declared by the General Assembly of the State of Arkansas that there is some question as to the ability of new car dealers in this state to meet the special order needs of their customers and therefore the availability and authority clarified and granted in this act is immediately necessary for the protection and preservation of the health, safety, and welfare of the people. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval.”

Acts 1993, No. 383, § 9: Mar. 8, 1993. Emergency clause provided: “It is hereby found and determined by the General Assembly that due to recent resignations of members, the Motor Vehicle Commission is unable to perform the duties assigned to it by law; that the consumer has not been adequately represented on the Commission; and that the changes in the membership and procedures of the Commission provided for in this Act are necessary to prevent injury to the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1995, No. 568, § 1: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that certain license fees charged by the Arkansas Motor Vehicle Commission need to be increased; that some of these fees are due on July 1 of each year; that unless this act is effective on July 1, 1995 those fees will not be increased; and that for the effective administration of this act an effective date of July 1, 1995 is necessary. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on July 1, 1995.”

Acts 1999, No. 1042, § 16: Apr. 1, 1999.

Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the provisions of this act are of essential importance to correct the persistent unfair treatment of dealers by manufacturers of the same line, in matters such as manufacturers' systematic denial of dealers' warranty and recall claims, manufacturers' offering certain models to their franchised dealers on an arbitrary and unfair basis; that this act is essential to protect the stability and viability of these business owners in this state and the ability of consumers to purchase automobiles without undue inter-

ference from manufacturers; and other similar matters. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-112-301. License required.

(a) Notwithstanding any other statute, the following acts are declared to be unlawful:

- (1) The violation of any of the provisions of this chapter; and
- (2) For any person to engage in business as, or serve in the capacity of, or act as a new motor vehicle dealer, motor vehicle salesperson, motor vehicle lessor, manufacturer, distributor, factory branch or division, distributor branch or division, factory representative, distributor representative, second-stage manufacturer, or converter, as such, in this state without first obtaining a license therefor as provided in this chapter, regardless of whether or not the person maintains or has a place of business in this state.

(b) Any person, firm, association, corporation, or trust engaging, acting, or serving in more than one (1) of these capacities or having more than one (1) place where such a business is carried on or conducted shall be required to obtain and hold a separate and current license for each capacity and place of business.

(c)(1) However, any licensed motor vehicle dealer shall not be required to obtain a license as a motor vehicle lessor for any location licensed as a motor vehicle dealer.

(2) A motor vehicle lessor shall be required to obtain only one (1) motor vehicle lessor's license, regardless of the number of leasing locations he or she owns and operates but shall list each location on his or her application and pay a fee of fifty dollars (\$50.00) for each location.

(3) New lease locations opened after a license is issued shall be approved by the Arkansas Motor Vehicle Commission but shall not require a new license.

(4) A motor vehicle lessor shall sell or offer for sale motor vehicles only from an established place of business and only after application to, approval of, and licensure at each location by the commission.

(d)(1) No person may engage in the business of buying, selling, or exchanging motor vehicles, unless he or she:

(A) Holds a valid license issued by the commission for the makes of motor vehicles being bought, sold, or exchanged; or

(B) Is a bona fide employee or agent of the licensee.

(2) For purposes of this subsection, “engage in the business of buying, selling, or exchanging motor vehicles” means:

(A) Displaying for sale motor vehicles on a lot or showroom;

(B) Advertising for sale new motor vehicles regardless of the medium used; or

(C) Regularly or actively soliciting buyers for motor vehicles.

History. Acts 1975, No. 388, §§ 5, 8, 10; 1977, No. 838, § 2; 1985, No. 1032, §§ 3, 6; 1985, No. 1058, §§ 3, 6; A.S.A. 1947, §§ 75-2305, 75-2308, 75-2310; Acts 1989, No. 678, § 1; 1995, No. 568, § 4; 1997, No. 1154, § 9; 1999, No. 1042, § 2; 2001, No. 1053, § 2.

A.C.R.C. Notes. Acts 1987, No. 620, § 2, provided, in part, that auto auctions, motor vehicle lessors and motor vehicle dealers, motor vehicle salesmen, and wholesalers, in used motor vehicles, shall be licensed pursuant to § 23-112-101 et seq. beginning July 1, 1985, and licenses relating to motor vehicles having fewer than four wheels shall be required beginning July 1, 1987.

Publisher’s Notes. Acts 1985, No. 1032, § 7, and No. 1058, § 7, which were identical, provided that auto auctions, motor vehicle lessors and motor vehicle dealers, motor vehicle salesmen, and wholesalers, in used motor vehicles, must be licensed pursuant to this chapter beginning July 1, 1985.

Acts 1975, No. 388, § 8, as amended, is also codified as § 23-112-401.

Amendments. The 1999 amendment added the present introduction to (a) and (a)(1) and redesignated the remaining subsections accordingly; in present (a)(2), substituted “For any person” for “It shall be unlawful for any person” and “second-stage” for “second state”; inserted “new” in present (c)(1); inserted “lease” and substituted “Arkansas Motor Vehicle Commission” for “commission” in present (c)(3); and substituted “(d)(1)” for “(b)(1)” in present (d)(3), (d)(5), and (d)(6); substituted “and a statement” for “in a statement” in present (d)(4)(A); and made stylistic changes.

The 2001 amendment substituted “Notwithstanding any other statute, the following” for “The following” in the introductory language of (a); inserted “separate and” in (b); redesignated former (d)(1) as present (d)(1)(A)-(B) and made related changes; inserted “regardless of the medium used” in (d)(2)(B); deleted (d)(3) through (e); and made gender neutral changes throughout.

Cross References. Misdemeanor, Class B, §§ 5-1-107, 5-4-201, 5-4-401.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-112-302. Application for license.

(a) Applications for licenses required to be obtained under the provisions of this chapter shall:

(1) Be verified by the oath or affirmation of the applicants;

(2) Be on forms prescribed by the Arkansas Motor Vehicle Commission and furnished to the applicants; and

(3) Contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the licenses applied for.

(b) The commission shall require that there be set forth in each application:

(1) Information relating to:

(A) The applicant's business integrity;

(B) Whether the applicant has an established place of business in the State of Arkansas and is primarily engaged in the pursuit, avocation, or business for which licenses are applied for; and

(C) Whether the applicant has the proper facilities and is able to properly conduct the business for which licenses are applied for; and

(2) Other pertinent information consistent with the safeguarding of the public interest and public welfare.

(c)(1)(A) In addition to the provisions of subsections (a) and (b) of this section, applications for licenses as:

(i) New motor vehicle dealers must also be accompanied by the filing with the commission of a corporate surety bond in the penal sum of fifty thousand dollars (\$50,000) on a bond form approved by the commission; and

(ii) New motorcycle dealers, new all-terrain vehicle dealers, and motor vehicle lessors must also be accompanied by the filing with the commission of a corporate surety bond in the penal sum of twenty-five thousand dollars (\$25,000) on a bond form approved by the commission.

(B) In each instance that a branch license is applied for, each application shall be accompanied by the filing with the commission of a corporate surety bond in the penal sum of twenty-five thousand dollars (\$25,000) on a bond form approved by the commission.

(C) Motor vehicle dealers shall also provide proof of liability insurance coverage on all vehicles to be offered for sale in an amount equal to or greater than the amount required by the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

(2) The bond shall be in effect upon the applicant's being licensed and shall be conditioned upon the applicant's complying with the provisions of this chapter.

(3) The bond shall be an indemnity for any loss sustained by any person by reason of the acts of the person bonded when those acts constitute grounds for the suspension or revocation of his or her license.

(4) The bond shall be executed in the name of the State of Arkansas for the benefit of any aggrieved party.

(5) The aggregate liability of the surety for all claimants, regardless of the number of years this bond is in force or has been in effect, shall not exceed the amount of the bond.

(6) The proceeds of the bond shall be paid upon receipt by the commission of a final judgment from an Arkansas court of competent jurisdiction against the principal and in favor of an aggrieved party.

(d)(1) In addition to the provisions of subsections (a)-(c) of this section, applications for licenses as motor vehicle dealers in new motor vehicles must also be accompanied by the filing with the commission of a bona fide contract or franchise then in effect between the applicant

and a manufacturer or distributor of the new motor vehicles proposed to be dealt in.

(2) However, if the contract or franchise has already been filed with the commission in connection with a previous application made by the applicant, the applicant, in lieu of again filing the contract or franchise, shall identify the contract or franchise by appropriate reference and file all revisions and additions, if any, which have been made to the contract or franchise.

(e) The applicant for a license as a new motor vehicle dealer must furnish satisfactory evidence that the applicant:

(1) Maintains adequate space in the building or structure wherein the applicant's established business is conducted for the display of new motor vehicles, or will have the facilities within a reasonable time after receiving a license; and

(2) Has or will have adequate facilities in the building or structure for the repair and servicing of motor vehicles and the storage of new parts and accessories for the motor vehicles.

(f)(1) Every licensed dealer shall maintain for three (3) years after the date of purchase records of each vehicle transaction to which the dealer was a party.

(2) Dealers shall maintain copies of all documents executed in connection with any transaction, which may include bills of sale, titles, odometer statements, invoices, affidavits of alteration, and reassignments, and shall be open to inspection by the Executive Director of the Arkansas Motor Vehicle Commission or a commission representative acting in an official capacity during reasonable business hours and upon execution of a subpoena.

(g)(1) The licensee applying for a branch license shall not utilize any portion of a franchise name or product nameplates.

(2) A licensee applying for a branch license shall remain in the relevant market area, as defined in the franchise or selling agreement approved by the franchiser and franchisee and on file in the commission office or as defined in this subchapter pertaining to relevant market area, whichever is greater.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1995, No. 568, § 5; 1999, No. 1042, § 3; 2001, No. 1053, § 3.

Amendments. The 1999 amendment inserted "in the State of Arkansas" in (b)(1)(C); inserted "for a license as a new motor vehicle dealer" in (e); and made stylistic changes.

The 2001 amendment redesignated former (a) as present (a) through (a)(3); deleted (b)(1)(A) and redesignated the remaining subsections accordingly; redesignated former (c)(1) as present (c)(1)(A) and made related changes; inserted "must also be...the commission;

and" in (c)(1)(A)(i); in (c)(1)(A)(ii), added "New motorcycle dealers, new all-terrain vehicle dealers," and deleted "However, an applicant for licenses at multiple locations may choose to provide a corporate surety bond in the penal sum of one hundred thousand dollars (\$100,000) covering all licensed locations of the same capacity in lieu of separate bonds for each individual location" at the end; added (c)(1)(B)-(C), (f), and (g); redesignated former (d) and (e) as present (d) and (e) and made related changes; and made gender neutral changes and minor stylistic changes throughout.

CASE NOTES

License.

Substantial evidence supported an agency finding that used motor vehicle dealer licensing requirements were intended to protect public in retail transac-

tions with used car dealers, not general creditors or business partners. *Lawyers Sur. Corp. v. Flowers*, 76 Ark. App. 415, 66 S.W.3d 669 (2002).

23-112-303. Application fees.

(a) All applications for licenses shall be accompanied by the appropriate fees in accordance with the schedule set out in this subchapter.

(b) In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

(c) The schedule of license fees to be charged and received by the Arkansas Motor Vehicle Commission for the licenses issued pursuant to this subchapter shall be as follows:

(1) For each manufacturer, distributor, factory branch and division, or distributor branch and division, second-stage manufacturer, importer, and converter, nine hundred dollars (\$900);

(2) For each motor vehicle dealer or motor vehicle lessor, one hundred dollars (\$100);

(3) For each manufacturer, distributor, or factory representative, four hundred dollars (\$400);

(4) For each motor vehicle salesperson, fifteen dollars (\$15.00);

(5) For each branch location, twenty-five dollars (\$25.00); and

(6) For each replacement certificate of license, ten dollars (\$10.00).

(d)(1) Any person, firm, or corporation required to be licensed under this subchapter who fails to make application for the license at the time required shall pay a penalty of fifty percent (50%) of the amount of the license fee for each thirty (30) days of default, in addition to the fees required to be paid pursuant to subsection (c) of this section. However, the penalty may be waived, in whole or in part, within the discretion of the commission.

(2) License applications for sales personnel shall be received in the commission office within thirty (30) days of employment.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1995, No. 568, § 6; 1997, No. 1154, § 14; 2001, No. 1053, § 4.

Amendments. The 2001 amendment substituted “fees in accordance with the schedule set” for “fees therefor in accordance with the schedule thereof set” in (a); inserted “second-stage manufacturer, im-

porter, and converter” in (c)(1); substituted “salesperson, fifteen dollars (\$15.00)” for “salesman, ten dollars (\$10.00)” in (c)(4); added (c)(5)-(6) and (d)(2); and, in (d)(1), deleted “in addition to the fees required to be paid pursuant to subsection (c) of this section” following “time required shall,” and inserted “in addition...of this section.”

23-112-304. Issuance of license — Change of location — Change of business or corporate name, structure, or DBA name — Dealers, manufacturers, distributors, etc.

(a) The license issued to each motor vehicle dealer, manufacturer, distributor, factory branch or division, or distributor branch or division shall specify the location of the factory, office, branch, or division thereof.

(b) In case the location is changed, the Arkansas Motor Vehicle Commission shall endorse the change of location on the license without charge if it is within the same county.

(c) A change of location to another county shall require a new license.

(d) Licensees shall notify the commission in writing of any change in the business or corporate name or structure and of any alternate name or names in which the company will do business, "DBA names", and shall provide the original issue license with the notification of name change or addition of DBA name or names. The commission shall endorse the change on the license without charge.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1995, No. 568, § 7; 1997, No. 1154, § 10; 2001, No. 1053, § 5.

substituted "business or corporate name, structure" for "business name" in the section heading; inserted "or structure" in (d); and made minor stylistic changes.

Amendments. The 2001 amendment

23-112-305. Display of license — Change of employer — Factory representative and distributor representative.

(a) Every motor vehicle factory representative or distributor representative shall have his or her license upon his or her person when engaged in his or her business and shall display the license upon request.

(b) The name of the employer of the factory representative or distributor representative shall be stated on the license, and, in case of a change of employer, the holder of the license shall immediately mail the license to the Arkansas Motor Vehicle Commission for its endorsement of the change thereon.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1995, No. 568, § 8; 2001, No. 1053, § 6.

Amendments. The 2001 amendment repealed (c).

23-112-306. Display of license — Change of employer — Salesperson.

(a) Every motor vehicle salesperson shall have his or her license upon his or her person or displayed at his or her place of employment, except as provided in this section, when engaged in his or her business and shall display the license upon request. The name and address of the applicant shall be stated on the license.

(b) In case of a change of employer, the following procedure shall be adhered to:

(1) Within three (3) days following the change, the licensee shall notify in writing the Arkansas Motor Vehicle Commission for its endorsement;

(2) Within three (3) days following the termination of employment of the licensee, the last employer of the licensee shall make a report to the commission setting forth the reasons why the services of the licensee were terminated and such other information as may be required by the commission;

(3) Upon receipt by the commission of the licensee's written notification and the last employer's report, the commission shall determine if it has grounds to believe, and does believe, that the licensee is no longer qualified under the provisions of this chapter as a motor vehicle salesperson. Under such circumstances, the commission shall immediately notify the licensee and the licensee's new employer in writing that a hearing will be held for the purpose of determining whether his or her license should be revoked or suspended, specifying the grounds for revocation or suspension, as the case may be, and the time and place for the hearing. The hearing and any and all appeals by the licensee with respect thereto shall be in accordance with the provisions of § 23-112-501 et seq.; and

(4)(A) If, after the commission receives the licensee's license and fee and his or her last employer's report, the Executive Director of the Arkansas Motor Vehicle Commission cannot for any reason endorse and mail to the licensee his or her license within a period of three (3) days following the receipt by the commission of the licensee's license and fee and his or her last employer's report, then and in that event the executive director shall mail to the licensee a permit in such form as the commission shall prescribe.

(B) The permit shall serve in lieu of a license until such time as the commission endorses and mails the license to the licensee, or until such time as the licensee's license is revoked or suspended in accordance with the provisions of this chapter.

(C) If the license is ultimately revoked or suspended, then immediately upon the revocation or suspension the licensee shall return the permit to the commission for cancellation.

(c) The commission shall maintain a permanent file with respect to each licensed motor vehicle salesperson. Each file shall contain all pertinent information with respect to the fitness and qualifications of each licensee for the use by the commission in determining from time to time whether his or her license should be revoked or suspended.

(d) There is no intent under this chapter to prevent a salesperson who has not previously been licensed as a salesperson from selling during the time required to process his or her application. The applicant shall be allowed to sell from the date of employment as long as the applicant and his or her dealer follow the procedure for license application.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1995, No. 568, § 9; 2001, No. 1053, § 7.

Amendments. The 2001 amendment rewrote this section.

23-112-307. Expiration of license.

(a) Unless the Arkansas Motor Vehicle Commission shall by regulation provide to the contrary, all licenses issued to manufacturers, distributors, factory or distributor branches, importers, second-stage manufacturers, converters, and motor vehicle dealers shall expire December 31 following the date of issue.

(b) Unless the commission shall by regulation provide otherwise, all licenses issued to motor vehicle lessors, representatives, and motor vehicle salespersons shall expire June 30 following the date of issue.

(c) Unless the commission by regulation provides to the contrary, licenses relating to motor vehicles having fewer than four (4) wheels shall expire December 31 following the date of issue.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1987, No. 620, § 2; 1995, No. 568, § 10; 2001, No. 1053, § 8.

Amendments. The 2001 amendment, in (a), substituted “importers, second-

stage manufacturers, converters, and” for “factory or distributor representatives,” and deleted “and motor vehicle salesmen of new motor vehicles” preceding “shall expire”; and inserted “representatives, and motor vehicle salespersons” in (b).

23-112-308. Denial, revocation, and suspension.

(a) Notwithstanding any other statute, the Arkansas Motor Vehicle Commission may deny an application for a license or revoke or suspend a license after it has been granted for any of the following reasons:

(1)(A) For selling or soliciting sales of a motor vehicle without a license issued by the commission.

(B) The unlawful sale or solicitation of each motor vehicle shall constitute a separate offense;

(2) On satisfactory proof of the unfitness of the applicant or the licensee, as the case may be, under the standards established and set out in this chapter;

(3) For fraud practiced or any material misstatement made by an applicant in any application for license under the provisions of this chapter;

(4) For failure to comply with any provision of this chapter or with any rule or regulation promulgated by the commission under authority vested in it by this chapter;

(5) Change of condition after license is granted or failure to maintain the qualifications for license;

(6) Continued violation of any of the provisions of this chapter or of any of the rules or regulations of the commission;

(7) For any violation of any law relating to the sale, distribution, or financing of motor vehicles;

(8) Defrauding any retail buyer to the buyer's damage;

(9) Failure to perform any written agreement with any retail buyer;

(10) Selling, attempting to sell, or advertising for sale vehicles from a location other than that set forth on the license;

(11) Falsifying, altering, or neglecting to endorse or deliver a certificate of title to a transferee or lawful owner or failing to properly designate a transferee on a document of assignment or certificate of title;

(12) Knowingly purchasing, selling, or otherwise acquiring or disposing of a stolen motor vehicle;

(13) Submitting a false affidavit setting forth that a title has been lost or destroyed;

(14) Passing title or reassigning title as a dealer without a dealer's license or when the dealer's license has been suspended or revoked;

(15) For a person representing that he or she is a dealer or salesperson, either verbally or in any advertisement, when the person is not licensed as such;

(16) Assisting any person in the sale of a motor vehicle, who is not licensed as a dealer by the commission;

(17) Being a manufacturer who fails to specify the delivery and preparation obligations of its motor vehicle dealers, as is required for the protection of the buying public, prior to delivery of new motor vehicles to retail buyers;

(18)(A) On satisfactory proof that any manufacturer, distributor, distributor branch or division, or factory branch or division has unfairly and without due regard to the equities of the parties or to the detriment of the public welfare failed to properly fulfill any warranty agreement or to adequately and fairly compensate any of its motor vehicle dealers for labor, parts, or incidental expenses incurred by the dealer with regard to factory warranty agreements performed by the dealer.

(B) Compensation for parts for two-wheeled, three-wheeled, and four-wheeled motorcycles and motor-driven all-terrain vehicles must be at the manufacturer's suggested retail price;

(19) For the commission of any act prohibited by §§ 23-112-301 — 23-112-307, 23-112-402, and 23-112-403, or the failure to perform any of the requirements of those sections;

(20) Using or permitting the use of special license plates assigned to him or her for any other purpose than those permitted by law;

(21) Disconnecting, turning back, or resetting the odometer of any motor vehicle in violation of state or federal law;

(22) Accepting an open assignment of title or bill of sale for a motor vehicle which is not completed by identifying the licensee as the purchaser or assignee of the motor vehicle;

(23)(A) Failure to notify the commission of a change in ownership, location, or franchise, or any other matters the commission may require by regulation.

(B) The notification shall be in written form and submitted to the commission at least fifteen (15) days prior to the effective date of the change; or

(24) Failure to endorse and deliver an assignment and warranty of title to the buyer pursuant to § 27-14-902.

(b) The revocation or suspension of the license of a manufacturer, factory branch or division, distributor, or distributor branch or division may be limited to:

(1) One (1) or more municipalities or counties;

(2)(A) The sales area of any dealer whose franchise is unfairly cancelled or terminated within the purview of this chapter or whose franchise is not renewed in violation of the provisions of this chapter.

(B) However, when a franchise is unfairly cancelled or terminated within the purview of this chapter or is not renewed in violation of the provisions of this chapter in a metropolitan area serviced by several motor vehicle dealers handling the same motor vehicles, the revocation or suspension shall not be applicable to the remaining motor vehicle dealers in the metropolitan area.

History. Acts 1975, No. 388, § 6; 1985, No. 1032, § 5; 1985, No. 1058, § 5; A.S.A. 1947, § 75-2306; Acts 1991, No. 411, § 1; 1993, No. 383, § 4; 2001, No. 1053, § 9.

Amendments. The 2001 amendment substituted "Notwithstanding any other statute, the Arkansas" for "The Arkansas" in the introductory language of (a); inserted (a)(1) and (a)(10)-(16) and redesignated the remaining subsections accordingly; deleted "any willful" preceding "failure" in (a)(4); deleted "or flagrant" preceding "violation" in (a)(6); deleted "willful" preceding "violation" in (a)(7); substituted "Defrauding" for "Willfully defrauding" in (a)(8); substituted "Failure" for "Willful Failure" in (a)(9); and inserted "or her" in (a)(20).

noted the remaining subsections accordingly; deleted "any willful" preceding "failure" in (a)(4); deleted "or flagrant" preceding "violation" in (a)(6); deleted "willful" preceding "violation" in (a)(7); substituted "Defrauding" for "Willfully defrauding" in (a)(8); substituted "Failure" for "Willful Failure" in (a)(9); and inserted "or her" in (a)(20).

CASE NOTES

Federal Jurisdiction.

The Arkansas Motor Vehicle Commission's biased application of the 1991 amendment of subdivision (a)(2) of this section to a pre-existing contract man-

dated that a federal district court exercise its jurisdiction over a claim brought pursuant to 42 U.S.C. § 1983. *Yamaha Motor Corp. v. Riney*, 21 F.3d 793 (8th Cir. 1994).

23-112-309. Monetary penalty in lieu of suspension or revocation of license.

(a)(1) If after alternative proceedings or notice and hearing the Arkansas Motor Vehicle Commission finds that any person holding a license under this chapter is guilty of any violation of this chapter or regulations promulgated under this chapter, it shall have the power and authority to impose a monetary penalty upon the licensee in lieu of suspension or revocation of license.

(2) The commission shall have the power and authority to require the licensee to pay the monetary penalty with the sanction that the license may be suspended until the penalty is paid, which time shall not exceed ninety (90) days from entry of the commission's order or final order on appeal.

(3) The penalty in lieu of suspension or revocation may be imposed only if the commission formally finds that the public interest would not be impaired thereby and the payment of the penalty will achieve the desired disciplinary results.

(b)(1) If the commission finds that there is sufficient cause upon which to base the revocation of a license, the amount of the monetary penalty in lieu of revocation shall not exceed ten thousand dollars (\$10,000).

(2) If the commission finds that there is sufficient cause upon which to base the suspension of a license, the amount of the monetary penalty in lieu of suspension shall not be less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) per day for each day the license would otherwise be suspended. However, the amount of the penalty shall not exceed the aggregate of five thousand dollars (\$5,000).

(c) No penalty shall be imposed if the license has been revoked by the commission for the violation.

(d) Each instance when this chapter or a regulation is violated shall constitute a separate violation.

(e) Unless the penalty assessed under this section is paid within fifteen (15) days following the date for an appeal from the order, the commission shall have the power to file suit in the Pulaski County Circuit Court to obtain a judgment for the amount of penalty not paid.

History. Acts 1975, No. 388, § 6; 1985, No. 1032, § 5; 1985, No. 1058, § 5; A.S.A. 1947, § 75-2306; Acts 1999, No. 1042, § 4; 2001, No. 1053, § 10.

Amendments. The 1999 amendment substituted “Arkansas Motor Vehicle

Commission” for “commission” in (a)(1); and rewrote (e).

The 2001 amendment, in (a)(1), inserted “alternative proceedings or,” and substituted “under this chapter” for “thereunder.”

23-112-310. Delivery, preparation, and warranty obligations.

(a)(1) Every licensed motor vehicle manufacturer, distributor, second-stage manufacturer, importer, or converter shall file with the Arkansas Motor Vehicle Commission with its initial application for a license:

(A) A copy of the documents stating the delivery, preparation, and warranty obligations of its motor vehicle dealers; and

(B) A schedule of the compensation to be paid to its motor vehicle dealers for the work and services they shall be required to perform in connection with the delivery, preparation, and warranty obligations.

(2) The documents shall constitute the dealer’s only responsibility for product liability as between the dealer and the manufacturer or distributor.

(3) Any revisions to the delivery, preparation, and warranty obligations or to the schedule of compensation shall be filed no later than September 15 of each calendar year.

(b) Any mechanical, body, or parts defects arising from any express or implied warranties of any manufacturer shall constitute the manufacturer’s product or warranty liability.

(c) Notwithstanding the terms of a franchise agreement or provision of law in conflict with this subsection, the dealer’s delivery, preparation, and warranty obligations as filed with the commission shall constitute the dealer’s sole responsibility for product liability as between the

dealer and the manufacturer or distributor, and, except for a loss caused by the dealer's negligence or intentional misconduct or a loss caused by the dealer's modification of a product without manufacturer authorization, the manufacturer or distributor shall reimburse the dealer for all losses incurred by the dealer, including legal fees, court costs, and damages, as a result of the dealer's having been named a party in a product liability action.

(d)(1) In no event shall any manufacturer, distributor, distributor branch or division, or factory or division branch pay to any of its motor vehicle dealers a labor rate per hour for warranty work less than that charged by the dealer to its retail customers. Conversely, no dealer shall charge to its manufacturer, distributor, distributor branch or division, or factory branch or division a labor rate per hour in excess of the rate charged to its retail customers.

(2)(A) All claims made by motor vehicle dealers for the labor, parts, or incidental expenses shall be paid within thirty (30) days following their approval.

(B) All claims shall be either approved or disapproved within thirty (30) days after their receipt, and when any claim is disapproved, the motor vehicle dealer who submits it shall be notified in writing of its disapproval within the period, and each notice shall state the specific grounds upon which the disapproval is based.

(3) In no event shall any manufacturer, distributor, distributor branch or division, or factory or division branch refuse to pay to any of its motor vehicle dealers for any warranty work, as long as the work in question was properly performed.

History. Acts 1975, No. 388, §§ 5, 6; 1985, No. 1032, §§ 3, 5; 1985, No. 1058, §§ 3, 5; A.S.A. 1947, §§ 75-2305, 75-2306; Acts 1991, No. 411, § 2; 1997, No. 1154, § 11; 1999, No. 1042, § 5; 2001, No. 1053, § 11.

Amendments. The 1999 amendment substituted "Arkansas Motor Vehicle

Commission" for "commission" in (a)(1); and added (d)(3).

The 2001 amendment redesignated former (a) as present (a) and made related changes; inserted "second-stage manufacturer, importer, or converter" in (a)(1); and made minor stylistic changes throughout.

23-112-311. Addition or relocation of new motor vehicle dealer.

(a)(1) In all instances, when a manufacturer or distributor seeks to enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer within or into a relevant market area where the same line make is then represented, the manufacturer or distributor shall in writing first notify the Arkansas Motor Vehicle Commission and each new motor vehicle dealer in that line make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area.

(2)(A) Within twenty (20) days of receiving the notice or within twenty (20) days after the end of any appeal procedure provided by the manufacturer or distributor, any new motor vehicle dealer may

file with the commission to protest the establishing or relocating of the new motor vehicle dealer.

(B) When a protest is filed, the commission shall inform the manufacturer or distributor that a timely protest has been filed, and that the manufacturer or distributor shall not establish or relocate the proposed new motor vehicle dealer until the commission has held a hearing, nor thereafter if the commission has determined that there is good cause for not permitting the addition or relocation of the new motor vehicle dealer.

(C) In the event that a protest is filed with the commission, the party desiring the addition or relocation of a new motor vehicle dealer pursuant to this subsection shall pay for and provide a copy of a survey showing the proposed location of the additional or relocated new motor vehicle dealer in relation to other existing dealers of the same line make in the relevant market area.

(b) This section does not apply:

(1) To the relocation of an existing new motor vehicle dealer, other than a new motor vehicle dealer of motorcycles, motorized cycles, and all-terrain vehicles, within that dealer's relevant market area, provided that the relocation not be at a site within ten (10) miles of a licensed new motor vehicle dealer for the same line make of motor vehicles;

(2) If the proposed new motor vehicle dealer, other than a new motor vehicle dealer of motorcycles, motorized cycles, and all-terrain vehicles, is to be established at or within two (2) miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle has ceased operating within the previous two (2) years; or

(3) To the relocation of an existing new motor vehicle dealer of motorcycles, motorized cycles, and all-terrain vehicles within that dealer's relevant market area, provided that the relocation not be at a site within twenty-five (25) miles of a licensed new motor vehicle dealer for the same line make of motor vehicles.

(c) In determining whether good cause has been established for not entering into a franchise establishing or relocating an additional new motor vehicle dealer for the same line make, the commission shall take into consideration the existing circumstances, including, but not limited to:

(1) Permanency of the investment of both the existing and proposed new motor vehicle dealers;

(2) Growth or decline in population and new car registrations in the relevant market area;

(3) Effect on the consuming public in the relevant market area;

(4) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(5) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the line make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel; and

(6) Whether the establishment of an additional new motor vehicle dealer would increase competition and, therefore, be in the public interest.

(d) The commission must conduct the hearing and render its final determination within one hundred twenty (120) days after a protest is filed. Unless waived by the parties, failure to do so shall be deemed the equivalent of a determination that good cause does not exist for refusing to permit the proposed additional or relocated new motor vehicle dealer, unless the delay is caused by acts of the manufacturer or distributor or the relocating or additional dealer.

(e) Any parties to a hearing by the commission concerning the establishing or relocating of a new motor vehicle dealer shall have a right of review of the decision in a court of competent jurisdiction pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1997, No. 1154, § 12; 1999, No. 1042, § 6; 2001, No. 1053, § 12.

Amendments. The 1999 amendment, in (a)(1), deleted "in the event that" following "In all instances" and substituted "seeking" for "seeks"; added the last sentence in (a)(2); in (b)(1), inserted "other than a dealer of motorcycles, motorized cycles, and all-terrain vehicles," and sub-

stituted "ten (10)" for "seven (7)"; inserted "other than a dealer of motorcycles, motorized cycles, and all-terrain vehicles" in (b)(2); rewrote (b)(3); and made stylistic changes.

The 2001 amendment substituted "when a manufacturer or distributor seeks" for "a manufacturer or distributor seeking" in (a)(1); redesignated former (a)(2) as present (a)(2) and made related changes; and inserted "new motor vehicle" in (b)(1)-(3).

CASE NOTES

Cited: Chrysler Motors Corp. v. Thomas Auto Co., 939 F.2d 538 (8th Cir. 1991).

ANALYSIS

Applicability.
Regulations.

Applicability.

The the notice, protest, and hearing requirement of this section does not apply to dealers of motorcycles and all terrain vehicles. *Yamaha Motor Corp., U.S.A. v. Richard's Honda Yamaha*, 344 Ark. 44, 38 S.W.3d 356 (2001).

Regulations.

Arkansas Motor Vehicle Commission Regulation 3-4 was held invalid as con-

trary to this section where it gave the commission the authority to hold a hearing on every new dealer application, while this section permits hearings on only some applications, i.e., not applications for new motor vehicle dealers of motorcycles or all terrain vehicles, for new dealerships only when a protest has been filed with the commission; in addition, the regulation placed the burden of proving good cause to grant a license on the party applying for the license, whereas this section places the burden of establishing good cause to deny the application on the protesting party. *Yamaha Motor Corp., U.S.A. v. Richard's Honda Yamaha*, 344 Ark. 44, 38 S.W.3d 356 (2001).

23-112-312. License reciprocity with other states.

(a) The Arkansas Motor Vehicle Commission is authorized to enter into reciprocal agreements with motor vehicle commissions, or their equivalents, in other states to allow motor vehicle dealers who are

licensed in those states to obtain a temporary permit in this state, pursuant to the rules and regulations promulgated by the Arkansas Motor Vehicle Commission.

(b) Any person who is licensed under the laws of another state or territory of the United States to engage in business as a motor vehicle dealer may apply for a temporary permit in this state upon production of satisfactory proof that:

(1) The other state or territory grants similar reciprocity to license holders of this state;

(2) The requirements for licensing in the particular state or territory were, at the date of the applicant's licensing, substantially equivalent to the requirements in effect in this state;

(3) The applicant meets all the qualifications for the temporary permit and pays the fees specified for the permits pursuant to the rules and regulations of the Arkansas Motor Vehicle Commission; and

(4) The applicant meets other reasonable qualifications as may be adopted by the Arkansas Motor Vehicle Commission for reciprocity.

History. Acts 1997, No. 1154, § 1.

A.C.R.C. Notes. References to "this chapter" in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this section which was enacted subsequently.

References to "this subchapter" in §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this section which was enacted subsequently.

23-112-313. Warranty agreements.

(a) Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division shall properly fulfill any warranty or recall agreement and adequately and fairly compensate each of its motor vehicle dealers for labor and parts.

(b)(1) In no event shall the compensation fail to include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty or recall work and service shall be reasonable and adequate for the work to be performed.

(2) In the determination of what constitutes reasonable compensation under this subsection, the principal factor to be given consideration shall be the prevailing wage rates being paid by the dealer in the relevant market area in which the motor vehicle dealer is doing business, and in no event shall the compensation of a motor vehicle dealer for warranty or recall service be less than the rates charged by the dealer for like service to retail customers for nonwarranty service and repairs.

(3)(A) All claims under this subsection, either original or resubmitted, made by motor vehicle dealers for the labor and parts shall be either approved or disapproved within thirty (30) days following their approval.

(B)(i) The motor vehicle dealer who submits a claim which is disapproved shall be notified in writing of the disapproval within the same period, and each such notice shall state the specific grounds upon which the disapproval is based. The motor vehicle dealer shall be permitted to correct and resubmit such disapproved claims within thirty (30) days of receipt of disapproval.

(ii) Any claims not specifically disapproved in writing within thirty (30) days from their submission shall be deemed approved, and payment shall follow within thirty (30) days.

(iii) No claim shall be disapproved because of a clerical error which does not render the amount of the claim incorrect.

(C)(i) The manufacturer or franchiser shall have the right to require documentation for claims and to audit the claims within a one-year period from the date the claim was paid or credit issued by the manufacturer or franchiser and to charge back any false or unsubstantiated claims.

(ii) The audit and charge-back provisions of this subdivision (b)(3) also apply to all other incentive and reimbursement programs for a period of twelve (12) months after the date of the transactions that are subject to audit by the franchiser.

(iii) However, the manufacturer retains the right to charge back any fraudulent claim if the manufacturer establishes in a court of competent jurisdiction in this state that the claim is fraudulent within a period not to exceed two (2) years from the date of the claim in question.

(c) This section shall not apply to compensation for parts of a motor home other than parts of a motorized chassis, engine, and power train.

History. Acts 1997, No. 1154, § 2; 1999, No. 1042, § 7.

A.C.R.C. Notes. References to “this chapter” in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this section which was enacted subsequently.

References to “this subchapter” in §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this section which was enacted subsequently.

Amendments. The 1999 amendment

added the subdivision designations in (b); inserted “or recall” in (a) and present (b)(2); substituted “subsection” for “subdivision” in present (b)(2); in present (b)(3), added the fifth sentence, inserted “(b)(3)” and substituted “twelve (12) months” for “eighteen (18) months” in the present seventh sentence, and added the language beginning “within a period” to the last sentence; and made minor punctuation changes.

23-112-314. Civil penalty.

(a) If after request for alternative proceedings or notice and hearing the Arkansas Motor Vehicle Commission finds that any person not holding a license under this chapter is guilty of any violation of this chapter or regulations promulgated thereunder, the commission shall have the power and authority to impose a monetary penalty upon the person not to exceed one thousand dollars (\$1,000) per violation.

(b) Each day of violation of this chapter or of a regulation shall constitute a separate violation subjecting the person to a separate civil penalty.

(c) Unless the penalty assessed under this section is paid within fifteen (15) days following the date for an appeal from the order, the commission shall have the power to file suit in the Pulaski County Circuit Court to obtain a judgment for the amount of the penalty not paid.

(d)(1) Repeated violations by any person not holding a license under this chapter shall result in an increase in the penalty assessed by the commission.

(2) The terms “second” and “subsequent” violation as used in this section mean a violation of the same nature as a previously remedied violation that occurs within five (5) years of the remedied violation by any person not holding a license under this chapter.

(3) The commission shall have the power and authority to impose a penalty not to exceed two thousand five hundred dollars (\$2,500) for a second violation, with the penalty increasing in increments of two thousand five hundred dollars (\$2,500) for each subsequent violation.

History. Acts 1999, No. 1042, § 8; in (a), inserted “request for alternative proceedings or” and substituted “the commission shall” for “it shall.”

2001, No. 1053, § 13.

Amendments. The 2001 amendment,

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Insurance
Law, 24 UALR L.J. 577.

23-112-315. Motor vehicle dealer documentary fees — Disclosures.

(a) A motor vehicle dealer may charge a documentary fee for services rendered to, for, or on behalf of a purchaser in preparing, handling, and processing documents relating to, and closing a retail installment transaction involving, a new motor vehicle.

(b) If a documentary fee is charged under this section, the fee must be:

(1) Charged to all purchasers, cash buyers, and credit buyers; and

(2) Disclosed on the buyer’s order form as a separate itemized charge.

(c) A preliminary work sheet on which a sale price is computed and that is shown to the purchaser, a buyers’ order form from the purchaser, or a retail installment contract shall include in reasonable proximity to the place on the document where the documentary fee is disclosed:

(1) The amount of the fee; and

(2) The following notice in type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material:

“A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. THIS NOTICE IS REQUIRED BY LAW.”

(d) The Arkansas Motor Vehicle Commission is authorized to promulgate rules and regulations to set a reasonable limit on the amount to be charged for a documentary fee under subsection (a) of this section and to implement, enforce, and administer this section.

History. Acts 2001, No. 1600, § 1; inserted “to set a reasonable...subsection 2003, No. 1722, § 1. (a) of this section” in (d).

Amendments. The 2003 amendment

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Regulated Industries, 24 UALR L.J. 595.

SUBCHAPTER 4 — UNLAWFUL PRACTICES

SECTION.

- 23-112-401. [Repealed.]
- 23-112-402. Dealer and salesperson.
- 23-112-403. Manufacturers, distributors, second-stage manufacturers, importers, or converters.

SECTION.

- 23-112-404. Motor vehicle lessors.
- 23-112-405. [Repealed.]
- 23-112-406. Acting as broker.
- 23-112-407. [Repealed.]

Effective Dates. Acts 1977, No. 838, § 3: approved Mar. 28, 1977. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission does not presently have adequate authority to compel compliance with the Arkansas Motor Vehicle Commission Act and Commission rules and regulations and that authority to seek injunctive relief against violations of the Act is necessary to the accomplishment of the Commission’s statutory responsibility to license and regulate the new motor vehicle industry in this State. Therefore, an emergency is found to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, it shall take effect upon the date of its passage.”

Acts 1985, No. 1032, § 9, and No. 1058, § 9: Apr. 17, 1985. Emergency clauses provided: “It is hereby found and determined by the General Assembly that neither the Arkansas Motor Vehicle Commis-

sion nor other board or commission presently have power to license and regulate dealers, salesmen, wholesalers who deal in used motor vehicles, motor vehicles lessors or auto auctions and that authority to regulate the aforesaid functions of the motor vehicle industry is necessary to prevent and remedy public injury in motor vehicle transactions. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1989, No. 65, § 11: Feb. 17, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission Act does not adequately regulate the actions of certain importers and others who purchase motor vehicles for sale to distributors and that such regulations are needed to protect distributors

and the public from unfair, discriminatory and coercive practices. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1042, § 16: Apr. 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the provisions of this act are of essential importance to correct the persistent unfair treatment of dealers by manufacturers of the same line, in matters such as manufacturers’ systematic denial of dealers’ warranty and recall claims, manufacturers’ offering certain models to their franchised dealers on an arbitrary and unfair basis; that this act

is essential to protect the stability and viability of these business owners in this state and the ability of consumers to purchase automobiles without undue interference from manufacturers; and other similar matters. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

23-112-401. [Repealed.]

Publisher’s Notes. This section, concerning penalties, was repealed by Acts 2001, No. 1053, § 14. The section was

derived from Acts 1975, No. 388, § 8; 1977, No. 838, § 2; A.S.A. 1947, § 75-2308.

23-112-402. Dealer and salesperson.

It shall be unlawful for a motor vehicle dealer or a motor vehicle salesperson:

(1) To require a purchaser of a motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts, or accessories not desired or requested by the purchaser. However, this prohibition shall not apply as to special features, appliances, equipment, parts, or accessories which are already installed on the car when received by the dealer;

(2) To represent and sell as a new motor vehicle any motor vehicle which has been used and operated for demonstration purposes or which is otherwise a used motor vehicle; or

(3) To resort to or use any false or misleading advertisement in connection with his or her business as a motor vehicle dealer or motor vehicle salesperson.

History. Acts 1975, No. 388, § 5; A.S.A. 1947, § 75-2305; Acts 2001, No. 1053, § 15.

Amendments. The 2001 amendment

substituted “salesperson” for “salesman” in the section heading, the introductory language, and (3); and deleted “new” preceding “motor vehicle” in (1).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Insurance
Law, 24 UALR L.J. 577.

23-112-403. Manufacturers, distributors, second-stage manufacturers, importers, or converters.

(a) It shall be unlawful:

(1) For a manufacturer, distributor, second-stage manufacturer, importer, converter, distributor branch or division, or factory branch or division, or an officer, agent, or other representative thereof, to coerce or attempt to coerce any motor vehicle dealer:

(A) To order or accept delivery of any motor vehicles, appliances, equipment, parts, or accessories therefor or any other commodities which shall not have been voluntarily ordered by the motor vehicle dealer;

(B) To order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle as publicly advertised by the manufacturer thereof;

(C) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever;

(D) To contribute or pay money or anything of value into any cooperative or other advertising program or fund; or

(E) To file for or to use a legal or "d/b/a" name or identification other than a name of choice by the dealer;

(2) For a manufacturer, distributor, distributor branch or division, or factory branch or division, or an officer, agent, or other representative thereof:

(A)(i) To refuse to deliver, in reasonable quantities and within a reasonable time after receipt of a dealer's order to any duly licensed motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by the manufacturer, distributor, distributor branch or division, or factory branch or division, any motor vehicles which are covered by the franchise or contract specifically publicly advertised by the manufacturer, distributor, distributor branch or division, or factory branch or division to be available for immediate delivery.

(ii) However, the failure to deliver any motor vehicle shall not be considered a violation of this chapter if the failure is due to forces of nature, work stoppages or delays due to strikes or labor difficulties, freight, embargoes, or other causes over which the manufacturer or distributor, or any agent thereof, has no control;

(B)(i) To coerce or attempt to coerce any motor vehicle dealer to enter into any agreement with the manufacturer, distributor, distributor branch or division, factory branch or division, or officer, agent, or other representative thereof, or to do any other act prejudicial to the

dealer by threatening to cancel any franchise or any contractual agreement existing between the manufacturer, distributor, distributor branch or division, or factory branch or division and the dealer.

(ii) However, good faith notice to any motor vehicle dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this chapter;

(C)(i)(a) To terminate or cancel the franchise or selling agreement of any dealer without due cause.

(b) The nonrenewal of a franchise or selling agreement without due cause shall constitute an unfair termination or cancellation, regardless of the terms or provisions of the franchise or selling agreement.

(ii)(a) The manufacturer, distributor, distributor branch or division, factory branch or division, or officer, agent, or other representative thereof shall notify a motor vehicle dealer in writing and forward a copy of the notice to the Arkansas Motor Vehicle Commission of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty (60) days before the effective date thereof, stating the specific grounds for the termination or cancellation.

(b) However, in the event that the commission finds that the franchise or selling agreement has been abandoned by the dealer, the commission, for good cause, may waive the sixty-day notice requirement and allow for the immediate termination of the franchise or selling agreement.

(iii)(a) The manufacturer, distributor, distributor branch or division, factory branch or division, or officer, agent, or other representative thereof shall notify a motor vehicle dealer in writing and forward a copy of the notice to the commission at least sixty (60) days before the contractual term of its franchise or selling agreement expires that the franchise or selling agreement will not be renewed, stating the specific grounds for the nonrenewal in those cases in which there is no intention to renew it.

(b) In no event shall the contractual term of any franchise or selling agreement expire without the written consent of the motor vehicle dealer involved prior to the expiration of at least sixty (60) days following the written notice.

(iv) Any motor vehicle dealer who receives written notice that its franchise or selling agreement is being terminated or cancelled or who receives written notice that its franchise or selling agreement will not be renewed may file with the commission within the sixty-day notice period a verified complaint for the commission's determination as to whether the termination or cancellation or nonrenewal is unfair within the purview of this chapter. That franchise or selling agreement shall continue in effect until final determination of the issues raised in the complaint, notwithstanding anything to the contrary contained in this chapter or in the franchise or selling agreement.

(v) In the event of the termination or cancellation of the franchise or selling agreement, the terminating or canceling party shall notify the commission of the termination or cancellation of the franchise or selling agreement at least sixty (60) days before the effective date;

(D) To resort to or use any false or misleading advertisement in connection with its business as a manufacturer, distributor, distributor branch or division, factory branch or division, or officer, agent, or other representative thereof;

(E)(i) To offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price charged to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device, including, but not limited to, sales promotion plans or programs, which results in a lesser actual price.

(ii) However, the provisions of this subdivision (a)(2)(E) shall not apply:

(a) To sales to a motor vehicle dealer for resale to any unit of federal, state, or local government;

(b) To sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated, or used by the dealer in a driver education program; or

(c) So long as a manufacturer or distributor, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at the same price.

(iii) Nothing contained in this subdivision (a)(2)(E) shall be construed to prevent the utilization of sales promotion plans or programs or the offering of volume discounts through new motor vehicle dealers, for fleet or volume purchasers, if the program is available to all new motor vehicle dealers from the same manufacturer in this state;

(F) To offer to sell or to sell any new motor vehicle to any person, except a wholesaler or distributor, at a lower actual price than the actual price offered and charged to a motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device which results in a lesser actual price;

(G)(i) To offer to sell or to sell parts and accessories to any new motor vehicle dealer for use in his or her own business for the purpose of repairing or replacing the parts and accessories, or comparable parts and accessories, at a lower actual price than the actual price charged to any other new motor vehicle dealer for similar parts and accessories for use in its own business.

(ii) However, it is recognized that certain motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets. Therefore, nothing contained in this subdivision (a)(2)(G) shall be construed to prevent a manufacturer or distributor, or any agent thereof, from selling to a motor vehicle dealer who operates and serves as a wholesaler of parts and accessories such parts and accessories as may be ordered by the motor vehicle dealer for resale

to retail outlets at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

(H)(i) To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer from changing the capital structure of its dealership or the means by or through which it finances the operation of the dealership, provided that:

(a) The dealer at all times meets any capital standards agreed to between the dealership and the manufacturer or distributor; and

(b) The standards are deemed reasonable by the commission.

(ii) If the dealer of record requests consent from the manufacturer or distributor in writing on the form, if any, generally utilized or required by the manufacturer or distributor for such purposes and the manufacturer or distributor fails to respond in writing, giving or withholding consent, within sixty (60) days of receipt of the written request, consent is deemed to be given;

(I)(i) Notwithstanding the terms of any franchise agreement, to fail to give effect or to attempt to prevent any sale or transfer of a dealer, dealership, or franchise or interest therein, or management thereof, provided that the manufacturer or distributor has received sixty-days' written notice prior to the transfer or sale, and unless:

(a) The transferee does not meet the criteria generally applied by the manufacturer in approving new motor vehicle dealers or agree to be bound by all the terms and conditions of the dealer agreement, and the manufacturer so advises its dealer within sixty (60) days of receipt of the notice; or

(b) It is shown to the commission after a hearing that the result of such a sale or transfer will be detrimental to the public or the representation of the manufacturer or distributor.

(ii) If the franchisee of record requests consent from the manufacturer or distributor in writing on the form, if any, generally utilized or required by the manufacturer or distributor for such purposes and the manufacturer or distributor fails to respond by giving or withholding consent in writing, within sixty (60) days of receipt of the written request, consent is deemed to be given;

(J)(i) Notwithstanding the terms of any franchise agreement, to prevent, attempt to prevent, or refuse to honor the succession to a dealership by any legal heir or devisee under the will of a dealer or under the laws of descent and distribution applicable to the decedent's estate, provided that the manufacturer or distributor has received sixty (60) days' written notice prior to the transfer or sale, and unless:

(a) The transferee does not meet the criteria generally applied by the manufacturer in approving new motor vehicle dealers or agree to be bound by all the terms and conditions of the dealer agreement, and the manufacturer so advises its dealer within thirty (30) days of receipt of the notice; or

(b) It is shown to the commission, after notice and hearing, that the result of such a succession will be detrimental to the public interest or to the representation of the manufacturer or distributor.

(ii) However, nothing in this subdivision (a)(2)(J) shall prevent a dealer, during his or her lifetime, from designating any person as his or her successor dealer by written instrument filed with the manufacturer or distributor.

(iii) If the dealer's successor, heir, or devisee requests consent from the manufacturer or distributor in writing on the form, if any, generally utilized or required by the manufacturer or distributor for such purposes and the manufacturer or distributor fails to respond by giving or withholding consent in writing, within thirty (30) days of receipt of the written request, consent is deemed to be given;

(K) Notwithstanding the terms of any franchise agreement, to fail to pay to a dealer or any lienholder in accordance with their respective interests after the termination of franchise:

(i) The dealer cost plus any charges by the manufacturer, distributor, or a representative for distribution, delivery, and taxes, less all allowances paid to the dealer by the manufacturer, distributor, or representative for new, unsold, undamaged, and complete motor vehicles of current model year and one (1) year prior model year in the dealer's inventory;

(ii) The dealer cost of each new, unused, undamaged, and unsold part or accessory, if the part or accessory is in the current parts catalogue, and if the part or accessory was purchased by the dealer either directly from the manufacturer or distributor or from an outgoing authorized dealer as a part of the dealer's initial inventory;

(iii) The fair market value of each undamaged sign owned by the dealer which bears a trademark or trade name used or claimed by the manufacturer, distributor, or representative, if the sign was purchased from or purchased at the request of the manufacturer, distributor, or representative;

(iv) The fair market value of all special tools and automotive service equipment owned by the dealer which were recommended in writing and designated as special tools and equipment and purchased from or purchased at the request of the manufacturer, distributor, or representative, if the tools and equipment are in usable and good condition except for reasonable wear and tear;

(v) The cost of transporting, handling, packing, and loading of motor vehicles, parts, signs, tools, and equipment subject to repurchase;

(vi) The balance of all claims for warranty and recall service and all other money owed by the manufacturer to the dealer;

(vii)(a) Compensation for the actual pecuniary loss caused by the franchise termination, cancellation, or nonrenewal unless for due cause.

(b) In determining the actual pecuniary loss, the value of any continued service or parts business available to the dealer for the line

make covered by the franchise shall be considered. If the dealer and the manufacturer, importer, or distributor cannot agree on the amount of compensation to be paid under this subchapter, either party may file an action in a court of competent jurisdiction; or

(viii) Any sums due as provided by subdivision (a)(2)(K)(i) of this section within sixty (60) days after termination of a franchise and any sums due as provided by subdivisions (a)(2)(K)(ii)-(vii) of this section within ninety (90) days after termination of a franchise. As a condition of payment, the dealer is to comply with reasonable requirements with respect to the return of inventory as are set out in the terms of the franchise agreement. A manufacturer, distributor, or representative who fails to pay those sums within the prescribed time or at such time as the dealer and lienholder, if any, proffer good title prior to the prescribed time for payment, is liable to the dealer for:

(a) The greatest of dealer cost, fair market value, or current price of the inventory;

(b) Interest on the amount due calculated at the rate applicable to a judgment of a court; and

(c) Reasonable attorney's fees and costs;

(L)(i) To fail or refuse to offer its same line make franchised dealers all models manufactured for that line make.

(ii) No additional requirements over the requirements originally required to initially obtain a dealership may be required of existing franchised dealers to receive any model by that line make;

(M)(i) To offer to sell or to sell any motor vehicle to a consumer, except through a licensed new motor vehicle dealer holding a franchise for the line make covering the new motor vehicle or as may otherwise be provided in subdivision (a)(3) of this section.

(ii) This subdivision (a)(2)(M) shall not apply to manufacturer sales of new motor vehicles to the federal government, charitable organizations, or employees of the manufacturer;

(N) To prohibit or require a dealer to enter into a franchise or sales agreement with third parties, regardless of the location of the dealership or proposed dealership; or

(O)(i) To require, coerce, or attempt to coerce any franchisee in this state to refrain from, or to terminate, cancel, or refuse to continue any franchise based upon participation by the franchisee in the management of, investment in, or the acquisition of a franchise for the sale of any other line of new motor vehicle or related products in the same or separate facilities as those of the franchiser.

(ii) This subdivision (a)(2)(O) does not apply unless:

(a) The franchisee maintains a reasonable line of credit for each make or line of new motor vehicle;

(b) The franchisee remains in compliance with the franchise and any reasonable facilities requirement of the franchiser; and

(c) No change is made in the principal management of the franchisee.

(iii) The reasonable facilities requirement shall not include any requirement that the franchisee establish or maintain exclusive

facilities, personnel, or display space, when such requirements would not otherwise be justified by reasonable business considerations.

(iv)(a) Before the addition of a line make to the dealership facilities, the franchisee must first request consent of the franchiser, if required by the franchise agreement.

(b) Any decision of the franchiser with regard to dualing of two (2) or more franchises shall be granted or denied within sixty (60) days after a written request from the new motor vehicle dealer. The franchiser's failure to respond timely to a dualing request shall be deemed to be approval of the franchisee's request;

(3) For a manufacturer, distributor, distributor branch or division, or factory branch or division, or an officer, agent, or other representative thereof:

(A) To own, operate, or control any motor vehicle dealer, provided that this subdivision (a)(3)(A) shall not be construed to prohibit the following:

(i) The operation by a manufacturer of a motor vehicle dealer for a temporary period, not to exceed one (1) year, during the transition from one (1) owner or operator to another;

(ii) The ownership or control of a motor vehicle dealer by a manufacturer during a period in which the motor vehicle dealer is being sold under a bona fide contract or purchase option to the operator of the dealership;

(iii) The ownership, operation, or control of a motor vehicle dealer by a manufacturer, if:

(a) The manufacturer has been engaged in the retail sale of new motor vehicles at the location for a continuous period of five (5) years prior to January 1, 1999; and

(b) The commission determines after a hearing on the matter at the request of any party, that there is no prospective new motor vehicle dealer available to own and operate the franchise in a manner consistent with the public interest; or

(iv) The ownership, operation, or control of a new motor vehicle dealer by a manufacturer, if the commission determines after a hearing on the matter at the request of any party, that there is no prospective new motor vehicle dealer available to own and operate the franchise in a manner consistent with the public interest; or

(4)(A) For a manufacturer to unfairly compete with a motor vehicle dealer of the same line make, operating under a franchise, in the relevant market area.

(B) "Unfairly compete" as used in this section, includes, but is not limited to:

(i) Internet solicitations; and

(ii) Preferential treatment of manufacturer-operated dealerships in the supply of inventory, both as to quantity and availability of the latest models of that line make, supply of parts, and payments for warranty and recall claims.

(C) Ownership, operation, or control of a new motor vehicle dealer by a manufacturer under the conditions set forth in subdivisions

(a)(3)(A)(i)-(iv) of this section shall not constitute a violation of this subdivision (a)(4).

(b)(1) Notwithstanding the terms of any franchise except a settlement agreement voluntarily entered into, it shall be a violation for a motor vehicle franchiser to require a motor vehicle franchisee to agree to a term or condition in any franchise as a condition of the offer, grant, or renewal of the franchise or the approval of the sale, acquisition, or transfer of the assets of a new motor vehicle dealer, which:

(A) Requires the motor vehicle franchisee to waive trial by jury in actions involving the motor vehicle franchiser;

(B) Specifies the jurisdictions, venues, or tribunal in which disputes arising with respect to the franchise, lease, or agreement shall or shall not be submitted for resolution, or otherwise prohibits a motor vehicle franchisee from bringing an action in a particular forum otherwise available under federal or state law;

(C) Requires a new motor vehicle dealer to pay the attorney's fees of a manufacturer, importer, second-stage manufacturer, converter, or distributor;

(D) Requires the motor vehicle franchisee to waive any remedy or defense available to the franchisee or other provision protecting the interests of the franchisee under this chapter; or

(E)(i) Requires that disputes between the motor vehicle franchiser and motor vehicle franchisee be submitted to binding arbitration or to any other binding alternative dispute resolution procedure provided by the franchiser.

(ii) However, any franchise, lease, or agreement may authorize the submission of a dispute to arbitration or to binding alternative dispute resolution if the motor vehicle franchiser and motor vehicle franchisee voluntarily agree to submit the dispute to binding arbitration or binding alternative dispute resolution after the dispute arises.

(iii) If the franchiser and franchisee agree to binding arbitration, the arbitrator shall apply the provisions of this chapter in resolving the pertinent controversy and shall provide the parties to a contract with a written explanation of the factual and legal basis for the award. Either party may appeal to the commission a decision of an arbitrator on the ground that the arbitrator failed to apply this chapter.

(2) For the purposes of this section, it shall be presumed that a motor vehicle franchisee has been required to agree to a term or condition in violation of this section as a condition of the offer, grant, or renewal of a franchise or of any lease or agreement ancillary or collateral to a franchise, if the motor vehicle franchisee, at the time of the offer, grant, or renewal of the franchise, lease, or agreement or the approval of the sale, acquisition, or transfer of the assets of a new motor vehicle dealer, is not offered the option of an identical franchise, lease, or agreement without the terms or conditions prescribed by this section.

(c) Concerning any sale of a motor vehicle or vehicles to the State of Arkansas or to the several counties or municipalities thereof or to any

other political subdivision thereof, no manufacturer or distributor shall offer any discounts, refunds, or any other similar type inducements to any dealer without making the same offers to all other of its dealers within the state. If the inducements are made, the manufacturer or distributor shall give simultaneous notice thereof to all of its dealers within the state.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305; Acts 1987, No. 663, § 1; 1989, No. 65, §§ 4, 5; 1991, No. 411, § 4; 1991, No. 730, § 1; 1997, No. 1154, § 13; 1999, No. 1042, § 9; 2001, No. 1053, § 16.

Amendments. The 1999 amendment added (a)(1)(E); substituted “forces of nature” for “acts of God” in the second sentence of (a)(2)(A); added a sentence in (a)(2)(C); made stylistic changes in (a)(2)(H) and (J); deleted the last sentence of (a)(2)(K)(i); deleted “is still in the orig-

inal, resalable merchandising package and in unbroken lots, except that in the case of sheet metal, a comparable substitute for the original package may be used, and” following “catalogue and” in (a)(2)(K)(ii); added (a)(2)(K)(vi) and redesignated former (a)(2)(K)(vi) as present (a)(2)(K)(vii); substituted “(vi)” for “(a)(2)(K)(v)” in present (a)(2)(K)(vii); and added (a)(2)(L)-(N), (3), and (4).

The 2001 amendment rewrote this section.

RESEARCH REFERENCES

UALR L.J. Survey, Contracts, 12 UALR L.J. 611.

Survey of Legislation, 2001 Arkansas

General Assembly, Insurance Law, 24 UALR L.J. 577.

CASE NOTES

ANALYSIS

Capital structure.

Termination.

Capital Structure.

Subdivision (a)(2)(H) of this section does not prohibit the manufacturer from requiring certain levels of working capital or investment under the franchise agreement. *Zeno Buick-GMC, Inc. v. GMC Truck & Coach*, 844 F. Supp. 1340 (E.D. Ark. 1992), *aff'd*, 9 F.3d 115 (8th Cir. 1993).

Termination.

The prohibition in subdivision (a)(2)(C) of this section goes to actual termination of the franchise rather than to constructive termination. *Zeno Buick-GMC, Inc. v. GMC Truck & Coach*, 844 F. Supp. 1340 (E.D. Ark. 1992), *aff'd*, 9 F.3d 115 (8th Cir. 1993).

Cited: *Chrysler Motors Corp. v. Thomas Auto Co.*, 939 F.2d 538 (8th Cir. 1991).

23-112-404. Motor vehicle lessors.

It shall be unlawful for a motor vehicle lessor or any agent, employee, or representative thereof:

(1) To represent and to offer for sale or to sell as a new or unused motor vehicle any motor vehicle which has been used or was intended to be used and operated for leasing or rental purposes or which is otherwise a used motor vehicle;

(2) To resort to, use, or employ any false, fraudulent, deceptive, or misleading advertising or representations in connection with the business of leasing or renting motor vehicles; or

(3) To sell or offer to sell a motor vehicle from an unlicensed location.

History. Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305.

23-112-405. [Repealed.]

Publisher's Notes. This section, concerning auto auctions, was repealed by Acts 1995, No. 568, § 12. The section was derived from Acts 1975, No. 388, § 5; 1985, No. 1032, § 3; 1985, No. 1058, § 3; A.S.A. 1947, § 75-2305.

23-112-406. Acting as broker.

(a) Notwithstanding any other statute, a person may not act as, offer to act as, or hold himself or herself out to be a broker of new motor vehicles.

(b) To effectuate this chapter, the definition of "arranges or offers to arrange a transition" means soliciting or referring buyers for new motor vehicles for a fee, commission, or other valuable consideration. Advertising is not included in this definition as long as the person's business primarily includes the business of broadcasting, printing, publishing, or advertising for others in their own names.

(c) **BROKERING NEW MOTOR VEHICLES.**

(1) A buyer referral service, program, plan, club, or any other entity that accepts fees for arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a fee to such an entity is aiding and abetting brokering. However, any service, plan, program, club, or other entity that forwards referrals to dealerships may lawfully operate if the following conditions are met:

(A) There are no exclusive market areas offered to dealers by the program and all dealers are allowed to participate on equal terms;

(B)(i) Participation by dealers in the program is not restricted by conditions such as limiting the number of franchise lines or discrimination by size of dealership or location.

(ii) Total number of participants in the program may be restricted if the program is offered to all dealers at the same time with no regard to the franchise;

(C) All participants pay the same fee for participation in the program and that shall be a weekly, monthly, or annual fee, regardless of the size, location, or line make of the dealership;

(D) A person is not to be charged a fee on a per referral basis or any other basis that could be considered a transaction-related fee;

(E) The program does not set or suggest to the dealer or customer any price of vehicles or trade-ins; and

(F) The program does not advertise or promote its plan in the manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(2) All programs must comply with Regulation 1 of the Arkansas Motor Vehicle Commission Rules and Regulations.

(d) The provisions of this section do not apply to any person or entity which is exempt from this chapter.

History. Acts 1975, No. 388, § 10; 1985, No. 1032, § 6; 1985, No. 1058, § 6; A.S.A. 1947, § 75-2310; Acts 2001, No. 1053, § 17.

Amendments. The 2001 amendment

substituted the present (a) for the former, which read: "A person may not act as, offer to act as, or hold himself out to be a broker"; and added (b)-(d).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001 Arkansas General Assembly, Insurance Law, 24 UALR L.J. 577.

23-112-407. [Repealed.]

Publisher's Notes. This section, concerning coercion, etc. of distributors, was repealed by Acts 1991, No. 890, § 4. The

section was derived from Acts 1989, No. 65, § 6.

SUBCHAPTER 5 — HEARINGS AND APPEALS

SECTION.

- 23-112-501. Right to hearing.
- 23-112-502. Call for hearing.
- 23-112-503. Notice — Location of hearing.
- 23-112-504. Conduct of hearing.
- 23-112-505. Decisions and orders of commission — Quorum.

SECTION.

- 23-112-506. Appeals.
- 23-112-507. Exhaustion of remedies required — Exception.
- 23-112-508. Rules of order or procedure.
- 23-112-509. Summons, citation, and subpoena.

Effective Dates. Acts 1989, No. 65, § 11: Feb. 17, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Arkansas Motor Vehicle Commission Act does not adequately regulate the actions of certain importers and others who purchase motor vehicles for sale to distributors and that such regulations are needed to protect distributors and the public from unfair, discriminatory and coercive practices. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 678, § 7: Mar. 20, 1989. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly of the State of Arkansas that there is some question as to the ability of new car dealers in this state to

meet the special order needs of their customers and therefore the availability and authority clarified and granted in this act is immediately necessary for the protection and preservation of the health, safety, and welfare of the people. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 383, § 9: Mar. 8, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that due to recent resignations of members, the Motor Vehicle Commission is unable to perform the duties assigned to it by law; that the consumer has not been adequately represented on the Commission; and that the changes in the membership and procedures of the Commission provided for in this Act are necessary to prevent injury to the public. Therefore, an

emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 568, § 1: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain license fees charged by the Arkansas Motor Vehicle Commission need to be increased; that some of these fees are due on July 1 of each year; that unless this act is effective on July 1, 1995 those fees will not be increased; and that for the effective administration of this act an effective date of July 1, 1995 is necessary. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect on July 1, 1995."

Acts 1999, No. 1042, § 16: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the provisions of this act are of essential importance to

correct the persistent unfair treatment of dealers by manufacturers of the same line, in matters such as manufacturers' systematic denial of dealers' warranty and recall claims, manufacturers' offering certain models to their franchised dealers on an arbitrary and unfair basis; that this act is essential to protect the stability and viability of these business owners in this state and the ability of consumers to purchase automobiles without undue interference from manufacturers; and other similar matters. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-112-501. Right to hearing.

The Arkansas Motor Vehicle Commission shall not:

- (1) Deny an application for a license without first giving the applicant a hearing, or an opportunity to be heard, on the question of whether he or she is qualified under the provisions of this chapter to receive the license applied for;
- (2) Revoke or suspend a license without first giving the licensee a hearing, or an opportunity to be heard, on the question of whether there are sufficient grounds under the provisions of this chapter upon which to base the revocation or suspension; or
- (3) Impose a civil penalty pursuant to § 23-112-314 without first giving the respondent a hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 1999, No. 1042, § 10.

Amendments. The 1999 amendment added (3); and made stylistic changes.

23-112-502. Call for hearing.

(a) Any interested party may petition the Arkansas Motor Vehicle Commission to call a hearing for the purpose of taking action with respect to any matter within the commission's jurisdiction by filing with the commission a notarized complaint setting forth grounds upon which

the complaint is based. Upon review of the complaint, the commission shall determine whether to call a hearing.

(b) On its own motion, the commission may call a hearing for the purpose of taking action in respect to any matter within its jurisdiction.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 1989, No. 65, § 7; 1999, No. 1042, § 11.

Amendments. The 1999 amendment, in (a), substituted “may petition the Ar-

kansas Motor Vehicle Commission to” for “shall have the right to have the commission,” inserted “notarized complaint” in the first sentence, and added the last sentence.

CASE NOTES

Remedies.

Defendant’s failure to seek a hearing before the Motor Vehicle Commission with respect to the Director’s rejection of its application for a motor vehicle dealer li-

cense was clearly a failure to exhaust administrative remedies. *Arkansas Motor Vehicle Comm’n v. Cantrell Marine, Inc.*, 305 Ark. 449, 808 S.W.2d 765 (1991).

23-112-503. Notice — Location of hearing.

(a) When a hearing is to be held before the Arkansas Motor Vehicle Commission, the commission shall give written notice to all parties whose rights may be affected thereby.

(b) The notice shall set forth the reason for the hearing, the questions or issues to be decided by the commission at the hearing, and the time and the place of the hearing.

(c) All notices shall be mailed to all parties whose rights may be affected by the hearing by registered or certified mail and addressed to their last known address.

(d)(1) Any hearing shall be held in the county of the residence of the party whose rights may be affected thereby or the county of that party’s principal place of business.

(2) If the party is a nonresident of the state, the hearing shall be held in the county where the principal office of the commission is located.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307.

23-112-504. Conduct of hearing.

All hearings shall be conducted pursuant to the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 1999, No. 1042, § 12.

Amendments. The 1999 amendment rewrote this section.

23-112-505. Decisions and orders of commission — Quorum.

(a) All decisions of the Arkansas Motor Vehicle Commission with respect to the hearings provided for in this subchapter shall be

incorporated into orders of the commission and spread upon its minutes.

(b) A majority of the members of the commission shall constitute a quorum for purposes of rendering an order, and no order will issue except upon the affirmative vote of a majority of the quorum of the members of the commission as established under § 23-112-201.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 1989, No. 678, § 2; 1995, No. 568, § 11.

23-112-506. Appeals.

Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 1993, No. 383, § 3.

CASE NOTES

Remedies.

State Supreme Court's decision that defendant did not exhaust its administrative remedies did not preclude defendant from following administrative procedure and,

in the event of a ruling against it, an appeal to the circuit court. *Arkansas Motor Vehicle Comm'n v. Cantrell Marine, Inc.*, 305 Ark. 449, 808 S.W.2d 765 (1991).

23-112-507. Exhaustion of remedies required — Exception.

No decision of the Arkansas Motor Vehicle Commission made as a result of a hearing under the provisions of this subchapter shall become final with respect to any party affected and aggrieved by the decision until the party has exhausted, or shall have had an opportunity to exhaust, all of his or her remedies provided for by this subchapter. However, any decision may be made final if the commission finds that failure to do so would be detrimental to the public interest or public welfare, but the finality of the decision shall not prevent any party affected and aggrieved thereby to appeal the decision in accordance with the appellate procedure set forth in this subchapter.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307.

23-112-508. Rules of order or procedure.

(a) The Arkansas Motor Vehicle Commission shall prescribe its rules of order or procedure in hearings, or other proceedings before it, under this chapter.

(b) However, rules of order or procedure shall not be in conflict or contrary to the provisions of this subchapter.

History. Acts 1975, No. 388, § 7;
A.S.A. 1947, § 75-2307.

23-112-509. Summons, citation, and subpoena.

(a) It shall be the duty of the sheriffs and constables of the counties of this state and of any employee of the Arkansas Motor Vehicle Commission, when so directed by the commission, to execute any summons, citation, or subpoena that the commission may cause to be issued and to make their return thereof to the commission.

(b)(1) The sheriffs and constables serving and returning any summons, citation, or subpoena shall be paid the same fees as provided for the services in the circuit court.

(2) Any person who appears before the commission, or a duly designated employee thereof, in response to a summons, citation, or subpoena shall be paid the same witness fee and mileage allowance as witnesses in the circuit court.

(c)(1) In case of failure or refusal on the part of any person to comply with any summons, citation, or subpoena issued and served as authorized, or in the case of the refusal of any person to testify or answer to any matter regarding that which he or she may be lawfully interrogated, or the refusal of any person to produce his or her record books and accounts relating to any matter regarding that which he or she may be lawfully interrogated, the circuit court of any county of the State of Arkansas, on application of the commission or of the Executive Director of the Arkansas Motor Vehicle Commission, may:

(A) Issue an attachment for the person; and

(B) Compel the person to:

(i) Comply with the summons, citation, or subpoena;

(ii) Attend before the commission or its designated employee;

(iii) Produce the documents specified in any subpoena duces tecum; and

(iv) Give his or her testimony upon such matters as he or she may be lawfully required.

(2) Any circuit court shall have the power to punish for contempt as in the case of disobedience of like process issued from or by any circuit court, or by refusal to testify therein in response to the process, and the person shall be taxed with the costs of the proceedings.

History. Acts 1975, No. 388, § 7; A.S.A. 1947, § 75-2307; Acts 2001, No. 1053, § 18; 2003, No. 1185, § 265.

Amendments. The 2001 amendment substituted “director” for “secretary” in the introductory language of (c)(1); redesignated former (c)(1) as present (c)(1) and made related changes; and made gender neutral changes throughout.

The 2003 amendment substituted “circuit court” for “chancery court” once in (c)(1) and twice in (c)(2); and deleted “or any chancellor of the court in vacation” preceding “on application” in (c)(1) and preceding “shall have the power” in (c)(2).

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Insurance
Law, 24 UALR L.J. 577.

SUBCHAPTER 6 — USED MOTOR VEHICLE BUYERS PROTECTION

SECTION.

- 23-112-601. Necessity for regulation —
Legislative findings —
Legislative declaration.
- 23-112-602. Definitions.
- 23-112-603. Penalty for violation and dis-
bursal of fines.
- 23-112-604. Power to promulgate rules
and regulations.
- 23-112-605. Violations.
- 23-112-606. License required.

SECTION.

- 23-112-607. Dealer license.
- 23-112-608. License certificate fees.
- 23-112-609. Issuance of license certifi-
cate.
- 23-112-610. Display of dealer license.
- 23-112-611. Records to be maintained.
- 23-112-612. Used motor vehicle dealer
documentary fees — Dis-
closures.

A.C.R.C. Notes. References to “this chapter” in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this subchapter which was enacted subsequently.

Publisher’s Notes. Acts 1993, No. 490, § 19, provided: “Grandfather clause. All dealers holding used motor vehicle licenses pursuant to Arkansas Code Annotated §§ 23-112-601 through 23-112-604 on the effective date of this act shall be recognized as qualifying dealers hereunder until the expiration of their existing dealer licenses.”

Former subchapter 6, concerning used motor vehicle dealers, was repealed by Acts 1993, No. 490, § 18. The former subchapter was derived from the following sources:

- 23-112-601. Acts 1989 (1st Ex. Sess.), No. 169, § 5.
- 23-112-602. Acts 1989 (1st Ex. Sess.), No. 169, § 5.
- 23-112-603. Acts 1989 (1st Ex. Sess.), No. 169, § 5.
- 23-112-604. Acts 1989 (1st Ex. Sess.), No. 169, § 5.

Effective Dates. Acts 1989 (1st Ex. Sess.), No. 169, § 9: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two

(2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1999, No. 1040, § 5: Apr. 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that it is in the best interests of the people of this state that used motor vehicle dealers be familiar with current laws relating to licensing and regulation of such dealers; that at the present time, no such knowledge or education is required; that it is urgently needed and that this act should be given effect immediately to require such education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become

effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Gover-

nor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

23-112-601. Necessity for regulation — Legislative findings — Legislative declaration.

(a) The General Assembly declares that the public interest is affected by the sale and distribution of used motor vehicles, and it is recognized that a significant factor of the inducement in making a sale of a used motor vehicle to a member of the general public is the trust and confidence of the purchaser in the retail dealer from whom the purchase is made, with the expectancy that the dealer will remain in business to stand behind and provide service for the motor vehicle purchased.

(b) It is therefore found to be necessary to license used motor vehicle dealers and to prohibit certain acts and set penalties for violations and perpetration of certain acts by used motor vehicle dealers who are not licensed as new motor vehicle dealers selling used cars incidental to their new motor vehicle dealership operations, salespersons, agents, representatives, and employees of used motor vehicle dealers in order to:

(1) Prevent fraud, improper impositions, and other abuses upon the citizens of this state;

(2) Protect and preserve the investments and properties of the citizens of this state; and

(3) Foster and keep alive vigorous and healthy competition by prohibiting unfair practices by which fair and honest competition is destroyed or prevented.

History. Acts 1993, No. 490, § 1.

CASE NOTES

Cited: *Hankins v. McElroy*, 313 Ark. 394, 855 S.W.2d 310 (1993).

23-112-602. Definitions.

As used in this subchapter:

(1)(A) "Auto auction" means any person who operates or provides a place of business or facilities for the wholesale exchange of motor vehicles by and between duly licensed motor vehicle dealers, or from used motor vehicle dealers to individuals, or individuals to used motor vehicle dealers, or any combination thereof, or any motor vehicle dealer licensed to sell used motor vehicles, selling used motor vehicles using an auction format or on consignment.

(B) "Auto auction" also applies to any person who provides the facilities for or is in the business of selling motor vehicles in an auction format;

(2) “Drafter” means any person who obtains financing for the purchase and resale of vehicles of another person or a used motor vehicle dealer through the use of the account of or based on the extension of credit by presenting at the time of purchase of the subject vehicles a documentary draft for purchase of the vehicle or who otherwise promises to pay through the accounts or credit of another person or a used motor vehicle dealer;

(3) “Licensed location” means the address designated as the business address of the used motor vehicle dealer on his or her application for a used motor vehicle dealer’s license;

(4) “Motor vehicle” means any motor-driven vehicle having two (2) or more wheels of the sort and kind required to have an Arkansas motor vehicle license, certificate, or permit for operation in the State of Arkansas;

(5) “Off-premises” means a location other than the address designated as the licensed address;

(6) “Person” means and includes, individually and collectively, individuals, firms, partnerships, associations, corporations, trusts, or any other form of business, individual enterprise, or entity;

(7) “Sale” or “sell” means the actual sale of a motor vehicle, the attempted sale, or the offering or advertising of a motor vehicle for sale;

(8)(A) “Used motor vehicle” means any motor vehicle which has previously been sold, bargained, exchanged, given away, or the title thereto transferred from the person or corporation who first took title from the manufacturer, importer, dealer, or agent of the manufacturer or importer, or that is so used as to have become what is commonly known as a secondhand or previously owned motor vehicle.

(B) In the event of a transfer reflected on the statement of origin from the original franchise dealer to any other dealer, individual, or corporation other than a franchise dealer of the same make of vehicle, the vehicle shall be considered a used motor vehicle;

(9)(A)(i) “Used motor vehicle dealer”, hereinafter referred to as “dealer”, means any person, wholesaler, or auto auction who, for a commission or with intent to make a profit or gain of money or other thing of value, sells, brokers, exchanges, rents, or leases with the option to purchase or own, or attempts to negotiate a sale or exchange of an interest in any used motor vehicle, or who is wholly or in part in the business of buying, selling, trading, or exchanging used motor vehicles, whether or not such motor vehicles are owned by such a person.

(ii) The sale or attempted sale of three (3) or more used motor vehicles in any one (1) calendar year shall be prima facie evidence and shall constitute a rebuttable presumption that a person is engaged in the business of selling used motor vehicles.

(B) Used motor vehicle dealer shall not include:

(i) A receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to a judgment or order of any court;

(ii) A public officer, while performing his or her official duties;

(iii) A mortgagee or secured party as to sales of motor vehicles constituting collateral on a mortgage or security agreement, if the mortgagee or secured leasing party shall not realize for their own account from such sales any moneys in excess of the outstanding balance secured by the mortgage or security agreement after consideration of the costs of collection;

(iv) A lienholder, artisan, mechanic, or garage selling repaired items pursuant to a lien granted by Arkansas law;

(v) A person selling a motor vehicle titled in his or her own name and used exclusively as a personal vehicle, or a motor vehicle titled in a business name and used exclusively as a business vehicle, or a person engaged in leasing or renting vehicles; or

(vi) A new motor vehicle dealer selling a used motor vehicle in conjunction with his or her new motor vehicle dealer operations who is licensed under this chapter;

(10) "Used motor vehicle salesperson", hereinafter referred to as "salesperson", is anyone who for compensation of any kind operates as a salesperson, broker, agent, or representative of a used motor vehicle dealer, or any person who attempts to or in fact negotiates a sale of a vehicle owned partially or entirely by a used motor vehicle dealer, or a person or drafter using the financial resources, line of credit, or floor plan of a used motor vehicle dealer to purchase, sell, or exchange an interest in a used motor vehicle; and

(11)(A) "Wholesaler" means any person, resident or nonresident, who, in whole or in part, primarily sells used motor vehicles to motor vehicle dealers.

(B) Used motor vehicle dealers who, incidental to their primary business, sell motor vehicles to other dealers are not considered wholesalers because of their incidental sales.

History. Acts 1993, No. 490, § 2; 1995, No. 357, § 1.

23-112-603. Penalty for violation and disbursal of fines.

(a) In addition to any other penalty prescribed by existing laws, the penalties for violation of this subchapter and the disbursement of fines shall be as follows:

(1) A first violation of this subchapter by any person shall constitute a Class A misdemeanor;

(2) A second violation of this subchapter by any person shall constitute a Class D felony; and

(3) Conviction of a third or subsequent violation shall constitute a Class D felony, and the dealer's license shall be suspended for three (3) years for each respective third or subsequent violation.

(b) Any person found guilty of selling a used motor vehicle as a dealer or salesperson while his or her used motor vehicle dealer's or salesperson's license is suspended or revoked shall be guilty of a Class C felony.

(c)(1) If the arresting officer is an officer of the Department of Arkansas State Police, one-half (½) of the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration on a form provided by that office, for deposit in the Department of Arkansas State Police Fund to be used for the purchase and maintenance of state police vehicles.

(2) If the arresting officer is a county law enforcement officer, one-half (½) of the fine collected shall be deposited in that county fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, life-saving medical apparatus, and law enforcement apparatus to be used for those purposes.

(3) If the arresting officer is a municipal law enforcement officer, one-half (½) of the fine collected shall be deposited in that municipal fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, life-saving medical apparatus, and law enforcement apparatus to be used for those purposes.

History. Acts 1993, No. 490, § 12; 2001, No. 1408, § 1; 2003, No. 1765, § 30.

Amendments. The 2001 amendment inserted “communications equipment ...enforcement apparatus” in (c)(2) and (3); and made minor stylistic changes throughout.

The 2003 amendment inserted “collected” three times in (c); and, in (c)(1), substituted “remitted by the ...for deposit in” for “deposited in the State Treasury and credited to.”

CASE NOTES

Administrative Remedy.

This section provides an aggrieved party holding a default judgment against a bonded principal with an administrative remedy for seeking payment under the bond — presentment of the default judgment to the Director of the Department of Finance and Administration; had the Department of Finance and Administration

denied the request for payment under the bond, the judgment creditor could then have sought review of the Department of Finance and Administration actions by seeking judicial review in court since state agencies are subject to suit pursuant to § 16-60-103. *Hankins v. McElroy*, 313 Ark. 394, 855 S.W.2d 310 (1993).

23-112-604. Power to promulgate rules and regulations.

(a) The Department of Arkansas State Police shall have the power to promulgate such rules and regulations as are necessary to implement, enforce, and administer this subchapter.

(b) The department may cancel a license if the respective dealer fails to keep and maintain the requirements set forth in § 23-112-607(a) and (b) or upon conviction of a third violation of this subchapter.

History. Acts 1993, No. 490, § 13.

23-112-605. Violations.

It shall be a violation of this subchapter to knowingly or intentionally:

- (1)(A) Sell a vehicle without a dealer license.
- (B) The sale of each vehicle shall constitute a separate offense;
- (2) Commit a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles;
- (3) Fail to maintain the conditions and requirements necessary to qualify for the issuance of a license;
- (4) Sell, attempt to sell, or advertise for sale vehicles from a location other than that set forth on the dealer license, except:
 - (A) As a participating dealer in a state trade association promotion or exhibit;
 - (B) With a special sale permit; or
 - (C) At an auto auction;
- (5) Falsify, alter, or neglect to endorse or deliver a certificate of title to a transferee or lawful owner, or fail to properly designate a transferee on a document of assignment or certificate of title;
- (6) Knowingly purchase, sell, or otherwise acquire or dispose of a stolen motor vehicle;
- (7) Submit a false affidavit setting forth that a title has been lost or destroyed;
- (8) Pass title or reassign title as a dealer without a dealer's license or when his or her dealer's license has been suspended;
- (9) To represent oneself as a dealer or as a salesperson, either verbally or in any advertisement, when not licensed as such;
- (10) Violate any provision or requirement in this subchapter; or
- (11) Knowingly assist an unlicensed dealer in the sale of a motor vehicle.

History. Acts 1993, No. 490, § 11;
1995, No. 357, § 2.

23-112-606. License required.

It shall be unlawful for any person to engage in business as a used motor vehicle dealer or to sell a vehicle not his or her own without obtaining a used motor vehicle dealer's license, except that a person defined as a salesperson in § 23-112-602 may act on behalf of the dealer by whom such a person is employed.

History. Acts 1993, No. 490, § 3.

23-112-607. Dealer license.

(a)(1) Persons wishing to obtain a used motor vehicle dealer's license shall submit a fully executed application on such used motor vehicle dealer application forms as may be prescribed by the Department of Arkansas State Police.

(2) The application shall be verified by the oath or affirmation of the applicant.

(b) The department shall require in relation to the application the following information and verification prior to issuing a license certificate:

- (1) A photograph of the business location;
- (2) A corporate surety bond in the sum of at least twenty-five thousand dollars (\$25,000);
- (3) Proof of liability insurance coverage on all vehicles to be offered for sale in an amount equal to or greater than the amount required by the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.;
- (4) A list of the persons or entities having any ownership interest in the used vehicle dealership;
- (5) A list of salespersons to be employed;
- (6) That the applicant has a bona fide established place of business used primarily for the sale of used motor vehicles;
- (7) That the applicant has a telephone number listed in the name of the business;
- (8) That the applicant has a sign identifying the establishment as a used motor vehicle dealership legible from the street, road, or highway, and a picture thereof;
- (9) That the applicant has a filing cabinet or other repository adequate to secure the business records of the establishment under lock and key or combination;
- (10) Whether the applicant has ever been issued a motor vehicle dealer's license, and if the applicant has ever had a motor vehicle dealer's license suspended or revoked;
- (11) An affidavit from a Department of Arkansas State Police officer stating that the officer has inspected the facility and found it to be in compliance with the requirements for application; and
- (12) The name, address, and telephone number of the person designated to receive legal process in the event of the commencement of any legal action in any court against the applicant.

(c)(1)(A) Each applicant shall obtain a corporate surety bond in the penal sum of twenty-five thousand dollars (\$25,000) on a bond form approved by the state.

(B) However, an applicant for a license at multiple locations may provide a corporate surety bond in the penal sum of one hundred thousand dollars (\$100,000) covering all licensed locations in lieu of separate bonds for each individual location.

(2) The bond shall be an indemnity for any loss and reasonable attorney's fees sustained by a retail buyer by reason of the acts of the person bonded when such an act constitutes a violation of this law.

(3) However, the surety shall in no event be liable for more than twenty-five thousand dollars (\$25,000).

(4) The bond shall be executed in the name of the State of Arkansas or any aggrieved party.

(5) The proceeds of the bonds shall be paid either to the State of Arkansas or to the retail buyer upon a judgment from an Arkansas

court of competent jurisdiction against the principal and in favor of the aggrieved party or the State of Arkansas.

(6) However, the surety shall in no event be required to pay any judgment obtained by fraud or collusion, as between the dealer and the retail buyer, or which was rendered against a person bonded for an act that does not constitute a violation of this subchapter. These defenses may be raised at any time, subject to the applicable statute of limitations.

History. Acts 1993, No. 490, §§ 4, 6; 1997, No. 705, § 1; 1999, No. 1040, § 1; 2001, No. 93, § 1.

Publisher's Notes. Acts 1993, No. 490, § 7, provided: "All bonds posted by presently licensed used motor vehicle dealers under Act 1058 of 1985 or Act 169 of 1989 (1st Extraordinary Session) shall be an indemnity for loss sustained by retail buyers only; and the proceeds shall be due

and payable upon receipt by the Director of the Department of Finance and Administration of a final judgement from an Arkansas court of competent jurisdiction against the principal and in favor of an aggrieved retail buyer."

Amendments. The 1999 amendment added (d); and made stylistic changes.

The 2001 amendment repealed (d).

23-112-608. License certificate fees.

(a)(1) The fee for a license certificate shall be one hundred dollars (\$100) per year for each used motor vehicle dealer licensed.

(2) The fee shall be for the licensing period beginning on January 1 of each year and ending on December 31 of each year and shall be renewable during the month of January following its expiration.

(3) A dealer having more than one (1) location will receive an additional certificate for each second and subsequent location for twenty-five dollars (\$25.00) each.

(b) Only used motor vehicle dealers licensed under this section shall qualify for used motor vehicle dealer license plates from the Arkansas Department of Finance and Administration.

(c) All fees for the issuance of a license certificate under the provisions of this section shall be remitted to the Department of Arkansas State Police and shall be deposited in the State Treasury as special revenues to the credit of the Department of Arkansas State Police Fund.

History. Acts 1993, No. 490, § 5.

23-112-609. Issuance of license certificate.

Upon satisfactory submission and verification of a fully executed application as required by § 23-112-607(a) and (b), payment of the fee provided for by § 23-112-608, and receipt of the corporate surety bond as required by § 23-112-607(c), the Department of Arkansas State Police shall issue the applicant a license certificate.

History. Acts 1993, No. 490, § 8.

23-112-610. Display of dealer license.

(a) Each dealer licensed under this subchapter shall maintain for display, in a conspicuous place at the dealer's business location, the license certificate issued by the Department of Arkansas State Police.

(b)(1) Each dealer shall also have his or her used motor vehicle dealer license name conspicuously displayed on all signage.

(2) All printed advertisements shall contain the dealer's name or the words "AR DLR" with the Department of Arkansas State Police dealer license number assigned to the dealer.

History. Acts 1993, No. 490, § 9; 1995, No. 357, § 3.

23-112-611. Records to be maintained.

(a) Every person required to have a license shall maintain, for three (3) years from the date of purchase, records of each vehicle transaction to which the person was a party.

(b) Dealers shall maintain copies of all documents executed in conjunction with any transaction, which may include bills of sale, titles, odometer statements, invoices, affidavits of alteration, and reassignments, and shall be open to inspection to any Department of Arkansas State Police officer acting in an official capacity during reasonable business hours.

History. Acts 1993, No. 490, § 10; 1995, No. 357, § 4.

23-112-612. Used motor vehicle dealer documentary fees — Disclosures.

(a) A used motor vehicle dealer may charge a documentary fee for services rendered to, for, or on behalf of a purchaser in preparing, handling, and processing documents relating to, and closing a retail installment transaction involving, a motor vehicle.

(b) If a documentary fee is charged under this section, the fee must be:

- (1) Charged to all purchasers, cash buyers, and credit buyers; and
- (2) Disclosed on the buyers' order form as a separate itemized charge.

(c) A preliminary work sheet on which a sale price is computed and that is shown to the purchaser, a buyers' order form from the purchaser, or a retail installment contract shall include in reasonable proximity to the place on the document where the documentary fee is disclosed:

- (1) The amount of the fee; and
- (2) The following notice in type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material:

"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PER-

**FORMING SERVICES RELATING TO THE CLOSING OF A SALE.
THIS NOTICE IS REQUIRED BY LAW.”**

(d) The Department of Arkansas State Police is authorized to promulgate rules and regulations to implement, enforce, and administer this section.

History. Acts 2001, No. 1600, § 2.

RESEARCH REFERENCES

UALR L.J. Survey of Legislation, 2001
Arkansas General Assembly, Regulated
Industries, 24 UALR L.J. 595.

SUBCHAPTER 7 — DAMAGE TO MOTOR VEHICLES WHILE IN TRANSIT

SECTION.

- 23-112-701. When delivery accomplished.
- 23-112-702. Damage prior to delivery to the dealer — Notice.
- 23-112-703. Failure to repair.
- 23-112-704. Computing time.
- 23-112-705. Disclosure of damage to consumer — Certification.

SECTION.

- 23-112-706. Damage after delivery to the dealer — Disclosure to the consumer — Certification.
- 23-112-707. Manufacturer required to indemnify franchised dealers.

A.C.R.C. Notes. References to “this chapter” in subchapters 1, 2, 4, and 5 and §§ 23-112-301 — 23-112-311, 23-112-314, and 23-112-315 may not apply to this subchapter which was enacted subsequently.

23-112-701. When delivery accomplished.

“Delivery” of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section shall be accomplished by the:

- (1) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer’s place of business or designated place of delivery; and
- (2) Giving of notice of the tender of the motor vehicle and documents to the dealer.

History. Acts 1991, No. 952, § 1.

23-112-702. Damage prior to delivery to the dealer — Notice.

(a) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

- (1) Notify the manufacturer or distributor of such damage within three (3) working days of the occurrence of the delivery of the motor vehicle; and

(2) Request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

(b) The notification of damage by the dealer must be by certified mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States Postal Service.

History. Acts 1991, No. 952, § 2.

23-112-703. Failure to repair.

In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within three (3) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for the damage to the motor vehicle. In determining when the notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States Postal Service indicated on the notice of delivery returned to the dealer shall be controlling.

History. Acts 1991, No. 952, § 3.

23-112-704. Computing time.

In computing the lapse of three (3) working days under this subchapter, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in § 23-112-703, is not to be included, but the last working day of the period so computed is to be included.

History. Acts 1991, No. 952, § 4.

23-112-705. Disclosure of damage to consumer — Certification.

(a) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in § 23-112-702, excluding damage to glass, tires, and bumpers when replaced by identical manufacturer's original equipment, and any damage not exceeding six percent (6%) of the sticker price of the vehicle, the occurrence and extent of such damage must be disclosed by the dealer to the consumer, and, upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer or dealer must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards.

(b)(1) If the dealer makes the certification, the dealer shall be indemnified by the manufacturer.

(2) Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.

History. Acts 1991, No. 952, § 5.

23-112-706. Damage after delivery to the dealer — Disclosure to the consumer — Certification.

(a) Whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor but before sale by the dealer to the consumer, and the occurrence and extent of such damage is in excess of six percent (6%) of the sticker price of the vehicle, it must be disclosed by the dealer to the consumer prior to the sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired or remanufactured according to the manufacturer's standards.

(b) Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

History. Acts 1991, No. 952, § 6.

23-112-707. Manufacturer required to indemnify franchised dealers.

Notwithstanding the terms of any franchise agreement, it shall be a violation of this subchapter for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement agreed to in writing by the manufacturer for damages, including, but not limited to, court costs and reasonable attorney's fees of the new motor vehicle dealer, arising out of complaints, claims, or lawsuits, including, but not limited to, strict liability, negligence, misrepresentation, or warranty to the extent that the judgment or settlement agreed to in writing by the manufacturer relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories, or other functions by the manufacturer, beyond the control of the dealer.

History. Acts 1991, No. 952, § 7.

Index to Title 23 (88-112)

A

ABSTRACTERS.

Title insurance.

Agent licenses.

Exempt from examination,
§23-103-307.

ACCIDENT INSURANCE.

Casualty insurance.

See CASUALTY INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

ACCIDENTS.

Amusements.

Records and statistics, §23-89-516.

Reporting, §23-89-510.

ACCOUNTS AND ACCOUNTING.

Continuing care providers.

Interest-bearing escrow account.

Provider required to establish,
§23-93-112.

Insurance.

Life and health insurance guaranty
association.

Accident and insurance account.

Maintenance by association,
§23-96-109.

Definition of "account," §23-96-104.

Life insurance and annuity account.

Maintenance by association,
§23-96-109.

Legal insurance.

Separate accounts, §23-91-213.

ACTIONS.

Continuing care providers.

Enforcement of chapter, §23-93-104.

Underinsured motorists, §23-89-209.

ADMISSION TAX.

Greyhound racing, §23-111-510.

Horse racing, §23-110-411.

ADVERTISING.

Continuing care providers.

Untrue, deceptive or misleading
statements.

Prohibited, §23-93-110.

Insurance.

Life and health insurance guaranty
association act.

Advertisement of act in insurance
sales.

Prohibited, §23-96-105.

ADVERTISING —Cont'd

Insurance —Cont'd

Long-term care insurance.

Compliance with subchapter.

Required, §23-97-205.

Property and casualty insurance
guaranty.

Prohibited advertisements or
statements, §23-90-121.

Motor vehicles.

Used motor vehicle dealers.

Requirements for printed
advertisements, §23-112-610.

AFFIDAVITS.

Greyhound racing.

Residence of officers and directors of
franchise holders, §23-111-406.

Penalty for false affidavit,
§23-111-406.

Professional employer organizations.

Employer service assurance

organization affidavit, §23-92-414.

Filing, §23-92-418.

AGED PERSONS.

Continuing care providers,

§§23-93-101 to 23-93-207.

See CONTINUING CARE
PROVIDERS.

AGENTS.

Insurance.

See INSURANCE.

Legal insurance.

Licenses, §23-91-219.

Management and exclusive agency
contracts, §23-91-214.

Title insurance.

Licensing, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

AMUSEMENTS.

Amusement ride and amusement attraction safety insurance.

Accidents.

Records and statistics, §23-89-516.

Reporting, §23-89-510.

Bungee jumping.

Prohibited bungee operations,
§23-89-512.

AMUSEMENTS —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd**

Cancellation of coverage.

Notice, §23-89-507.

Orders, §23-89-507.

Cease and desist orders.

Notice required, §23-89-509.

Operation without safety inspection and insurance, §23-89-504.

Unsafe conditions, §23-89-507.

Citation of subchapter, §23-89-501.

Definitions, §23-89-502.

Disposition of funds received under provisions, §23-89-517.

Emergency inspections, §23-89-506.

Exemptions from provisions, §23-89-503.

Fees.

Action for delinquent fees, §23-89-504.

Disposition of funds received under provisions, §23-89-517.

Inspectors, §23-89-504.

Insurance inspections, §§23-89-504 to 23-89-507.

Intoxication.

Ride operators, §23-89-511.

Minimum amount, §23-89-505.

Misdemeanors.

Operation without safety inspection and insurance, §23-89-504.

Nondestructive testing.

Compliance with manufacturer standards, §23-89-515.

Defined, §23-89-502.

Operation without safety inspection and insurance unlawful, §23-89-504.

Operators of rides.

Qualifications, §23-89-511.

Standard of care, §23-89-511.

Orders.

Cancellation or suspension of permits.

Transmission to Arkansas state police, §23-89-509.

Penalties.

Operation without safety inspection and insurance, §23-89-504.

Permits.

Required, §23-89-505.

Portable attractions.

Safety inspections, §23-89-506.

Proof of coverage, §23-89-505.

AMUSEMENTS —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd**

Records, §23-89-516.

Ride operators, §23-89-511.

Qualifications, §23-89-511.

Standard of care, §23-89-511.

Rider safety.

Duties of patrons, §23-89-514.

Posting notices, §23-89-513.

Rules and regulations.

Promulgation, §23-89-508.

Safety advisory board, §23-89-518.

Safety inspections.

Director, §23-89-506.

Emergency inspections, §23-89-506.

Fee, §23-89-505.

Determination of fee amounts, §23-89-506.

Frequency, §23-89-506.

Insurance company, §23-89-507.

Portable attractions, §23-89-506.

Required, §§23-89-504, 23-89-505.

Title of subchapter, §23-89-501.

Unsafe conditions.

Cease and desist orders, §23-89-507.

Notice, §23-89-507.

APPEALS.**Arkansas earthquake authority.**

Rulings or decisions of board, §23-102-115.

Greyhound racing.

Franchises to conduct races.

Refusal to grant temporary franchise, §23-111-302.

Horse racing.

Findings and orders of racing commission, §23-110-205.

Franchises to conduct horse races.

Refusal to grant, §23-110-302.

Insurance.

Property and casualty insurance guaranty.

Rulings of commissioner, §23-90-123.

Rural risk underwriting association.

Applicants for policy, persons insured under plan and others affected by plan may appeal to commissioner, §23-88-309.

ARKANSAS EARTHQUAKE**AUTHORITY ACT, §§23-102-101 to 23-102-119.**

See EARTHQUAKE AUTHORITY.

ARKANSAS RURAL RISK UNDERWRITING ASSOCIATION.

General provisions, §§23-88-301 to 23-88-309.

See **INSURANCE**.

ARSON.

Insurance.

Anti arson applications, §§23-88-201 to 23-88-210.

Alternative application, §23-88-209.

Applicability of provisions, §23-88-203.

Assignment of policy or contract.
When completion of anti-arson application required, §23-88-203.

Change in information.

Notification, §23-88-208.

Defined, §23-88-202.

Forms.

Promulgation by insurance commissioner, §23-88-205.

Mandatory use, §23-88-206.

Penalties.

Violations of subchapter, §23-88-204.

Purpose of subchapter, §23-88-201.

Required to enter into insurance contract, §23-88-207.

Termination of contracts, §23-88-210.

ASSESSMENTS.

Insurance.

Life and health insurance guaranty association.

Assessment of member insurers, §23-96-115.

Property and casualty insurance guaranty.

Accounting for and repayment of assessments, §23-90-114.

Claims, §23-90-112.

Taxation.

Credit against taxes, §23-90-119.

Rural risk underwriting association.

Governing board empowered to make, §23-88-306.

ASSETS.

Legal insurance.

Investment of assets, §23-91-217.

ASSIGNMENTS.

Insurance.

Life and health insurance guaranty association.

Assignment rights, §23-96-114.

ASSOCIATIONS.

Insurance.

Life and health insurance guaranty association.

General provisions, §§23-96-101 to 23-96-121.

See **DISABILITY INSURANCE**.

Rural risk underwriting association, §§23-88-301 to 23-88-309.

See **INSURANCE**.

ATTORNEYS AT LAW.

Legal insurance.

Accounts and accounting.

Separate accounts, §23-91-213.

Agents.

Licenses, §23-91-219.

Management and exclusive agency contracts, §23-91-214.

Annual report, §23-91-215.

Applicability of general insurance law.

To all legal insurers, hearings and appeals, §23-91-204.

To insurance companies, §23-91-204.

Trade practices, §23-91-218.

Assets.

Investments, §23-91-217.

Certificates of authority.

Applications, §23-91-208.

Public documents, §23-91-227.

Conditions for issuing, §23-91-209.

Issuance, §23-91-209.

Required, §23-91-208.

Suspension, revocation or refusal to renew, §23-91-222.

Citation of subchapter, §23-91-201.

Contracts.

Management and exclusive agency contracts, §23-91-214.

Definitions, §23-91-203.

Ethics, §23-91-221.

Examinations.

Grounds, §23-91-220.

Exemptions, §23-91-206.

Legal referral services program.

Requirements prior to administering, §23-91-206.

Fees.

Payment to commissioner, §23-91-225.

General insurance law.

Applicability to all legal insurers, hearings and appeals, §23-91-204.

Applicability to insurance companies, §23-91-204.

Hearings.

Applicability of general insurance law, §23-91-204.

ATTORNEYS AT LAW —Cont'd**Legal insurance —Cont'd**

Investments.

Assets, §23-91-217.

Legal referral services program.

Requirements of persons exempt from provisions of subchapter prior to administering, §23-91-206.

Legislative declaration, §23-91-202.

Licenses.

Agents, §23-91-219.

Liquidation, §23-91-223.

Management and exclusive agency contracts, §23-91-214.

Penalties.

Generally, §23-91-207.

Policies.

Forms.

Approval, §23-91-212.

Regulation, §23-91-210.

Premiums.

Taxation, §23-91-226.

Professional ethics, §23-91-221.

Public documents, §23-91-227.

Purposes, §23-91-202.

Rates.

Approval, §23-91-212.

Regulation, §23-91-211.

Regulation of policy forms, §23-91-210.

Regulation of rates, §23-91-211.

Rehabilitation, §23-91-223.

Reports.

Annual report, §23-91-215.

Exempt persons, §23-91-206.

Public documents, §23-91-227.

Reserves.

Maintenance, §23-91-216.

Revocation of certificate of authority, §23-91-222.

Rules and regulations.

Authority to promulgate, §23-91-224.

Separate accounts, §23-91-213.

Service of process, §23-91-208.

Short title, §23-91-201.

Suspension of certificate of authority, §23-91-222.

Taxation, §23-91-226.

Trade practices, §23-91-218.

Unauthorized insurance, §23-91-205.

Violations.

Penalty provisions, §23-91-207.

Unauthorized insurance, §23-91-205.

Multiple employer trust and self-insured plans.

Bonds, surety.

Required.

Exception, §23-92-204.

ATTORNEYS AT LAW —Cont'd**Title insurance agents.**

Licenses.

No further qualification required to be licensed title agent, §23-103-302.

B**BACKGROUND CHECKS.****Professional employer organizations.**

Controlling persons, §23-92-405.

BANKRUPTCY AND INSOLVENCY.**Continuing care providers.**

Resident's statutory lien on real and personal property, §23-93-113.

BOARDS AND COMMISSIONS.**Amusement ride safety advisory board, §23-89-518.****Racing commission.**

Greyhound racing.

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

BONDS, SURETY.**Greyhound racing.**

Franchise holders, §23-111-514.

Horse racing.

Franchise holders, §23-110-414.

Racing commission.

Secretary, §23-110-202.

Motor vehicles.

Dealers, distributors, manufacturers and salespersons.

Licenses, §23-112-302.

Used motor vehicle buyers protection, §23-112-607.

Professional employer**organizations, §23-92-408.**

Employer service assurance organizations, §23-92-415.

BREAST CANCER.**Health insurance.**

Mastectomies.

Required coverage, §23-99-405.

BROKERS.**Motor vehicles.**

Dealers, distributors, etc.

Acting as broker unlawful, §23-112-406.

BUNGEE JUMPING.**Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

C

CANCER.**Breast cancer.**

Mammography.

Required insurance coverage,
§23-99-405.

CASUALTY INSURANCE.**Applicability of insurer's insolvency protection, §23-89-402.****Assigned risk.**

Eligibility for automobile liability insurance through automobile liability assigned risk plan,
§23-89-307.

Benefits.

Exclusion of benefits, §23-89-205.
Minimums, §23-89-201.
Payments under coverage, §23-89-208.
Reimbursement.
Insurer's rights of reimbursement,
§23-89-207.

Bodily injury coverage.

Property damage coverage, §23-89-404.
Required, §23-89-403.

Coverage.

Bodily injury, §23-89-403.
Property damage, §23-89-404.

Definitions.

Cancellation of policy, §23-89-301.
Uninsured motor vehicle, §23-89-401.

Eligibility.

Automobile liability insurance through automobile liability assigned risk plan, §23-89-307.

Exclusion of benefits, §23-89-205.**First party coverage.**

Required coverage, §23-89-202.

Guaranty, §§23-90-101 to 23-90-123.

See within this heading, "Property and casualty insurance guaranty."

Insolvency.

Insolvency protection.
Applicability, §23-89-402.
Insured insolvency does not release liability insurer, §23-89-102.

Liabilities.

Tort liability.
Retention, §23-89-206.

Notice.

Cancellation of policies.
Proof of mailing, §23-89-306.
Nonrenewal of policies, §23-89-305.
Proof of mailing, §23-89-306.

Passengers.

Coverage for passengers and other not occupying another vehicle,
§23-89-204.

CASUALTY INSURANCE —Cont'd Policies.

Cancellation, §23-89-301.
Grounds, §23-89-303.
No liability or cause of action against persons for information or statements relating to cancellation, §23-89-308.
Proof of mailing of notices,
§23-89-306.

Definitions, §23-89-301.

First party coverage.

Required coverage, §23-89-202.
Grounds for cancellation of policy,
§23-89-303.

Nonrenewal.

Liability or cause of action,
§23-89-308.
Notice, §23-89-305.
Proof of mailing of notices,
§23-89-306.
Statement of grounds for nonrenewal, §23-89-305.

Passengers.

Coverage for passengers and others not occupying another vehicle,
§23-89-204.

Property and casualty insurance guaranty.

Issuance of new or renewal policies,
§23-90-118.

Rejection of coverage, §23-89-203.

Private passenger automobile liability insurance, §23-89-209.**Property and casualty insurance guaranty, §§23-90-101 to 23-90-123.**

Accounts and accounting.

Assessments, §23-90-114.

Advertisement and statement prohibition, §23-90-121.

Advisory association.

Conflicts of interest.

Members entering into contracts,
§23-90-110.

Creation, §23-90-106.

Powers and duties, §23-90-108.

Procedures, §23-90-107.

Recommendations and reports,
§23-90-109.

Appeals, §23-90-123.

Applicability, §23-90-104.

Assessments.

Accounting for and repayment of,
§23-90-114.

Claims, §23-90-112.

Credit against taxes, §23-90-119.

Estimation of amount needed to pay claims, §23-90-112.

CASUALTY INSURANCE —Cont'd
Property and casualty insurance guaranty —Cont'd

- Assessments —Cont'd
 - Failure to pay, §23-90-113.
 - Taxation.
 - Credit against taxes, §23-90-119.
- Certificates of authority.
 - Suspension or revocation, §23-90-113.
- Citation of chapter, §23-90-101.
- Claims.
 - Applicability of chapter, §23-90-111.
 - Estimation of amount needed to pay claims, §23-90-112.
 - Notification of insureds, §23-90-111.
 - Payment, §23-90-115.
 - Covered claims, §23-90-115.
 - Estimation of amount needed to pay claims, §23-90-112.
 - Right of recovery, §23-90-117.
- Construction and interpretation, §23-90-105.
- Covered claims, §23-90-111.
 - Defined, §23-90-103.
- Duties of receiver, §23-90-116.
- Estimated amount needed to pay claims, §23-90-112.
- Exemptions from act, §23-90-104.
- Failure to pay assessment, §23-90-113.
- Insolvent insurer.
 - Defined, §23-90-103.
- Insurer.
 - Defined, §23-90-103.
- Legislative declaration, §23-90-102.
- Liability, §23-90-120.
- Liberal construction of chapter, §23-90-105.
- Net direct written premiums.
 - Defined, §23-90-103.
- Notice, §23-90-111.
- Payment of covered claims, §23-90-115.
 - Defined, §23-90-103.
- Person.
 - Defined, §23-90-103.
- Policies.
 - Issuance of new or renewal policies, §23-90-118.
- Purpose of act, §23-90-102.
- Receivership.
 - Duties of receiver, §23-90-116.
- Right of recovery, §23-90-117.
- Rules and regulations, §23-90-122.
- Short title, §23-90-101.
- Suspension or revocation of certificates of authority, §23-90-113.

CASUALTY INSURANCE —Cont'd
Property and casualty insurance guaranty —Cont'd

- Taxation.
 - Assessments as credit against taxes, §23-90-119.
 - Title of chapter, §23-90-101.
- Railroad accidents.**
 - Not to be considered in automobile insurance, §23-89-302.
- Reimbursement.**
 - Insurers' rights of reimbursement, §23-89-207.
- Rejection of coverage,** §23-89-203.
- Risk retention and purchasing groups.**
 - General provisions, §§23-94-201 to 23-94-215.
 - See RISK RETENTION AND PURCHASING GROUPS.
- Risk-sharing plans for property and casualty insurance,** §§23-95-101 to 23-95-108.
 - Board, §23-95-103.
 - Construction and interpretation, §23-95-102.
 - Governing board, §23-95-103.
 - Hearings, §23-95-104.
 - Immunity from liability, §23-95-107.
 - Information for individuals, §23-95-106.
 - Liability, §23-95-107.
 - Plan for coverage.
 - Contents, §23-95-105.
 - Requirement, §23-95-104.
 - Purpose, §23-95-101.
 - Required plan.
 - Information about services prescribed in plan, §23-95-106.
 - Participation by insurer in losses and expenses, §23-95-105.
 - Voluntary plan not approved or submitted to commissioner, §23-95-104.
- Rules and regulations, §23-95-108.
- Voluntary plan.
 - Information about services prescribed, §23-95-106.
 - Requirements, §23-95-105.
 - Submission for approval, §23-95-104.
- Subrogation.**
 - Injured persons subrogated to right of insured, §23-89-101.
 - Insurer making payment, §23-89-405.
- Torts.**
 - Retention of tort liability, §23-89-206.
- Uninsured motorists.**
 - Definitions, §23-89-401.

CASUALTY INSURANCE —Cont'd**Uninsured motorists —Cont'd**

Generally.

See UNINSURED MOTORISTS.

CEASE AND DESIST ORDERS.**Amusement ride and amusement****attraction safety insurance,**

§§23-89-504, 23-89-507, 23-89-509.

Continuing care providers.

Enforcement of chapter, §23-93-104.

CHILDREN.**General provisions.**

See MINORS.

CIVIL PROCEDURE.**Appeals.**

General provisions.

See APPEALS.

CLAIMS.**Insurance.**

See INSURANCE.

COMMUNITY COLLEGES.**Greyhound racing revenue.**

Use of revenue derived from additional racing days, §23-111-515.

COMPROMISE AND SETTLEMENT.**Underinsured motorists.**

Tentative agreement, §23-89-209.

CONFIDENTIALITY OF INFORMATION.**Professional employer****organizations,** §23-92-413.**Property insurance.**

Fire loss reporting act, §23-88-403.

CONFLICT OF LAWS.**Horse racing.**

Statutes prohibiting betting on racing inapplicable, §23-110-102.

CONFLICTS OF INTEREST.**Greyhound racing.**

Racing commission.

Persons prohibited from membership, §23-111-202.

Horse racing.

Racing commission.

Persons prohibited from membership, §23-110-201.

Insurance.

Property and casualty insurance guaranty.

Advisory association.

Members may enter into contracts, §23-90-110.

CONSUMER PROTECTION.**Health insurance,** §§23-99-401 to 23-99-416.

See HEALTH INSURANCE.

CONTINUING CARE PROVIDERS.**Accounts and accounting.**

Interest-bearing escrow account.

Provider required to establish, §23-93-112.

Actions.

Enforcement of chapter, §23-93-104.

Advertising.

Untrue, deceptive or misleading statements.

Prohibited, §23-93-110.

Applicability of chapter, §23-93-102.**Bankruptcy and insolvency.**

Resident's statutory lien on real and personal property, §23-93-113.

Citation of chapter, §23-93-101.**Contracts.**

Contents.

Minimum content requirements, §23-93-108.

Licenses, §23-93-203.

Refunds.

Rescission of contractual obligation, §23-93-109.

Requirements, §23-93-108.

Rescission, §23-93-109.

Written in clear and understandable language.

Required, §23-93-108.

Definitions, §23-93-103.

Licenses, §23-93-201.

Disclosure statements.

Annual disclosure statements.

Contents, §23-93-106.

Required, §23-93-106.

Deficiencies.

Notice, §23-93-107.

Initial disclosure statements, §23-93-106.

Contents, §23-93-106.

Required, §23-93-106.

Inspections, §23-93-107.

Notice.

Deficiencies, §23-93-107.

Review, §23-93-107.

Enforcement of chapter, §23-93-104.**Escrow.**

Interest-bearing escrow account.

Requirements, §23-93-112.

Examinations.

Insolvent facilities.

Financial examinations conducted, §23-93-114.

Financial statements.

Inaccurately stating true financial condition.

Prohibited, §23-93-110.

Injunctions.

Enforcement of chapter, §23-93-104.

CONTINUING CARE PROVIDERS

—Cont'd

Intention of general assembly,
§23-93-102.**Investigations.**

Grounds for investigation, §23-93-114.

Powers of commissioner, §23-93-114.

Licenses, §§23-93-201 to 23-93-207.

Agency action on application.

Time period, §23-93-206.

Applicability of act, §23-93-202.

Application.

Contents, §23-93-207.

Denial, §23-93-206.

Documents and information
required, §23-93-207.

Fees, §23-93-206.

Time period for agency action,
§23-93-206.

Criteria for issuance, §23-93-204.

Definitions, §23-93-201.

Disciplinary actions, §23-93-205.

Fees.

Application fee, §23-93-206.

Entrance fee.

Defined, §23-93-201.

Issuance, §23-93-204.

Management of facility.Limitation on third-party provider
contracts, §23-93-203.Reconsideration of application,
§23-93-206.

Scope of act, §23-93-202.

Transferability, §23-93-203.

Violations, §23-93-205.

Liens.Bankruptcy or receivership of provider
resulting from financial
difficulties.Resident's statutory lien on real and
personal property, §23-93-113.**Liquid refund reserves, §23-93-111.****Mandamus.**

Enforcement of chapter, §23-93-104.

Notice.

Disclosure statements.

Deficiencies, §23-93-107.

Licenses.

Disciplinary actions, §23-93-205.

Orders.

Cease and desist orders.

Enforcement of chapter, §23-93-104.

Receivers.Bankruptcy or receivership of provider
resulting from financial
difficulties.Resident's statutory lien on real and
personal property, §23-93-113.**CONTINUING CARE PROVIDERS**

—Cont'd

Refunds.

Liquid refund reserves.

Establishing and maintaining.

Required, §23-93-111.

Information relating to amount and
method used to maintain
furnished upon request,
§23-93-111.Satisfaction of reserve requirement,
§23-93-111.Rescission of contractual obligation,
§23-93-109.**Rescission of contract, §23-93-109.****Rules and regulations, §23-93-105.****Title of chapter, §23-93-101.****CONTRACTS.****Continuing care providers.****Contents.**Minimum content requirements,
§23-93-108.

Licenses, §23-93-203.

Refunds.Rescission of contractual obligation,
§23-93-109.

Requirements, §23-93-108.

Rescission, §23-93-109.

Written in clear and understandable
language.

Required, §23-93-108.

Legal insurance.Management and exclusive agency
contracts, §23-91-214.**COUNSELORS.****Attorneys at law.**

See ATTORNEYS AT LAW.

CREDITOR-PLACED INSURANCE,

§§23-101-101 to 23-101-114.

Actual cash value.

Defined, §23-101-103.

ACV.

Defined, §23-101-103.

Applicability of provisions,

§23-101-102.

Blanket insurance.

Defined, §23-101-103.

Certificates.

Approval of forms, §23-101-108.

Evidence of coverage, §23-101-107.

Claims.

Amount paid, §23-101-110.

Collateral.

Defined, §23-101-103.

Security interest in collateral,
§23-101-111.

CREDITOR-PLACED INSURANCE

—Cont'd

Credit agreements.

Defined, §23-101-103.

Creditors.

Defined, §23-101-103.

Rights and duties of parties,
§23-101-111.**Credit transactions.**

Defined, §23-101-103.

Dates of insurance, §23-101-105.**Debtors.**

Defined, §23-101-103.

Disclosures to debtor, §23-101-113.

Rights and duties of parties,
§23-101-111.**Definitions, §23-101-103.****Disclosures to debtor, §23-101-113.****Evidence of coverage, §23-101-107.****Insurance tracking.**

Defined, §23-101-103.

Insurers.

Defined, §23-101-103.

Lapse.

Defined, §23-101-103.

Legislative intent, §23-101-101.**Limited dual interest insurance.**

Defined, §23-101-103.

Loss ratio.

Defined, §23-101-103.

Net debt.

Defined, §23-101-103.

Policies.

Approval of forms, §23-101-108.

Evidence of coverage, §23-101-107.

Premiums.

Calculation, §23-101-106.

Payment, §23-101-106.

Insurers' requirements, §23-101-112.

Rates, §23-101-108.

Refund of unearned premiums,
§23-101-109.**Producers.**

Defined, §23-101-103.

Prohibited coverages, §23-101-104.**Purpose of provisions, §23-101-101.****Rulemaking to implement provisions, §23-101-114.****Scope of provisions, §23-101-102.****Single interest insurance.**

Claims.

Amount paid, §23-101-110.

Defined, §23-101-103.

Unearned premiums.Refund of unearned premiums,
§23-101-109.**CRIMINAL LAW AND PROCEDURE.****Amusement rides and attractions,
§23-89-504.****CRIMINAL LAW AND PROCEDURE**

—Cont'd

Amusements.

Safety of patrons, §23-89-514.

Arson.

See ARSON.

Dog racing.Compliance with franchise,
§23-111-501.Failure to appear or testify at
hearings, §23-111-205.

Failure to pay tax, §23-111-513.

False affidavits of officers and
directors, §23-111-406.

Improper wagering, §23-111-508.

Issuance of sales tax-free passes,
§23-111-510.**Felonies.**

General provisions.

See FELONIES.

Horse racing.

Compliance with license, §23-110-410.

Failure to appear or testify at
hearings, §23-110-205.

Failure to pay tax, §23-110-415.

False applications for employment,
§23-110-308.

Improper wagering, §23-110-405.

Issuance of sales tax-free passes,
§23-110-411.**Motor vehicle manufacturers,
dealers, etc.**Failure to obtain a license,
§23-112-301.**Property insurance.**Willful violations by insurer,
§23-88-204.**Title insurance.**

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.**D****DAMAGES.****Insurance.**

Health insurance.

Primary eye care providers.

Remedies for violations,
§23-99-305.**Motor vehicles.**Damage to motor vehicles in transit to
dealers, §§23-112-701 to
23-112-706.

See MOTOR VEHICLES.

DAMAGES —Cont'd**Motor vehicles —Cont'd**

Licenses.

Dealers, distributors, manufacturers and salespersons.

Pecuniary loss from failure to comply with provisions,
§23-112-105.

Underinsured motorists, §23-89-209.

Punitive damages.

Underinsured motorists.

Tentative settlement agreement,
§23-89-209.

DEBTS.**Insurance.**

Creditor-placed insurance,
§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

DECEDENTS' ESTATES.**Motor vehicle franchises,**

§23-112-403.

DEFINED TERMS.**Account.**

Life and health insurance guarantee association, §23-96-104.

Actual cash value (ACV).

Creditor-placed insurance,
§23-101-103.

Acute condition.

Health insurance consumer protection,
§23-99-403.

Advertisement.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

All-terrain vehicle.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Amusement attraction.

Casualty insurance, §23-89-502.

Amusement ride.

Casualty insurance, §23-89-502.

Anti-arson application.

Property insurance, §23-88-202.

Applicant.

Long-term care insurance, §23-97-203.

Association.

Life and health insurance guaranty association, §23-96-104.

Authorized assessment.

Life and health insurance guaranty association, §23-96-104.

Auto auction.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Used motor vehicle buyer protection,
§23-112-602.

DEFINED TERMS —Cont'd**Automobile collision coverage.**

Casualty insurance, §23-89-301.

Automobile liability coverage.

Casualty insurance, §23-89-301.

Automobile physical damage coverage.

Casualty insurance, §23-89-301.

Benefit plan.

Life and health insurance guaranty association, §23-96-104.

Blanket insurance.

Creditor-placed insurance,
§23-101-103.

Branch location.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Broker.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Business entity.

Title insurance, agents licensing,
§23-103-102.

Called assessment.

Life and health insurance guaranty association, §23-96-104.

Carve-out arrangement.

Health insurance coverage for mental illness, §23-99-503.

Certificate.

Long-term care insurance, §23-97-203.

Children's preventive health care services.

Minimum basic benefit policies,
§23-98-102.

Client.

Professional employer organizations,
§23-92-402.

COBRA.

Insurance.

Minimum basic benefit policies,
§23-98-102.

Coemployer.

Professional employer organizations,
§23-92-402.

Coemployment relationship.

Professional employer organizations,
§23-92-402.

Coerce.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Collateral.

Creditor-placed insurance,
§23-101-103.

Commitment.

Title insurance, agents licensing,
§23-103-102.

DEFINED TERMS —Cont'd**Completed operations liability.**

Liability risk retention, §23-94-203.

Construction.

Horse racing, disposition of wagering proceeds, §23-110-407.

Continuing care.

Continuing care provider regulation, §23-93-103.

Contract.

Property insurance, §23-88-203.

Contract owner.

Life and health insurance guaranty association, §23-96-104.

Contractual obligation.

Life and health insurance guarantee association, §23-96-104.

Professional liability insurance, §23-91-203.

Controlling person.

Professional employer organizations, §23-92-402.

Conversion.

Motor vehicle manufacturers and dealers, §23-112-103.

Converters.

Motor vehicle manufacturers and dealers, §23-112-103.

Copayment.

Patient protection act, §23-99-203.

Covered claim.

Property and casualty insurance guarantee, §23-90-103.

Covered employee.

Professional employer organizations, §23-92-402.

Covered person.

Dental point of service option, §23-99-603.
Health insurance consumer protection, §23-99-403.
Primary eye care provider act, §23-99-302.

Covered policy.

Life and health insurance guarantee association, §23-96-104.

Covered service.

Primary eye care provider act, §23-99-302.

Credit agreement.

Creditor-placed insurance, §23-101-103.

Creditor.

Creditor-placed insurance, §23-101-103.

Creditor-placed insurance,
§23-101-103.**DEFINED TERMS —Cont'd****Credit transaction.**

Creditor-placed insurance, §23-101-103.

Debtor.

Creditor-placed insurance, §23-101-103.

Delivery.

Motor vehicle manufacturers, dealers, etc., §23-112-701.

Dentist.

Dental point of service option, §23-99-603.

Developmental disorders.

Health insurance coverage for mental illness, §23-99-503.

Distributor.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Distributor branch.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Distributor representative.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Domicile.

Liability risk retention, §23-94-203.

Drafter.

Used motor vehicle buyer protection, §23-112-602.

Employer service assurance organization.

Professional employer organizations, §23-92-402.

Engage in the business of buying, selling or exchanging new motor vehicles.

Motor vehicle manufacturers, dealers, etc., §23-112-301.

Entity.

Health insurance consumer protection, §23-99-403.
Health insurance coverage for mental illness, §23-99-503.

Entrance fee.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Event.

Arkansas earthquake authority act, §23-102-103.

Extra-contractual claims.

Life and health insurance guaranty association, §23-96-104.

Eye and/or vision care benefits.

Primary eye care providers, §23-99-302.

Facilities.

Continuing care providers, §§23-93-103, 23-93-201.

DEFINED TERMS —Cont'd**Factory branch.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Factory representative.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Feasibility study.

Liability risk retention, §23-94-203.

Financial requirements.

Health insurance coverage for mental
illness, §23-99-503.

Franchise.

Motor vehicle manufacturers and
dealers, §23-112-103.

Gatekeeper.

Primary eye care provider act,
§23-99-302.

Gatekeeper system.

Patient protection act, §23-99-203.
Primary eye care provider act,
§23-99-302.

Good faith.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Group long-term care insurance,
§23-97-203.**Hazardous financial condition.**

Continuing care providers, §23-93-203.

Health benefit plan.

Health insurance consumer protection,
§23-99-403.
Health insurance coverage for mental
illness, §23-99-503.
Patient protection act, §23-99-203.
Primary eye care providers,
§23-99-302.

Health care insurer.

Health insurance consumer protection,
§23-99-403.
Health insurance coverage for mental
illness, §23-99-503.
Primary eye care provider act,
§23-99-302.

Health care provider.

Patient protection act, §23-99-203.

Health care services.

Dental point of service option,
§23-99-603.
Grievance and quality assessment and
improvement systems, §23-99-702.
Patient protection act, §23-99-203.

Health carrier.

Dental point of service option,
§23-99-603.
Grievance and quality assessment and
improvement systems, §23-99-702.

DEFINED TERMS —Cont'd**Health plan.**

Dental point of service option,
§23-99-603.

Home state.

Title insurance, agents licensing,
§23-103-102.

Impaired insurer.

Life and health insurance guarantee
association, §23-96-104.

**Inactive signing title insurance
agent,** §23-103-102.**Insolvent insurer.**

Life and health insurance guaranty
association, §23-96-104.
Property and casualty insurance
guaranty, §23-90-103.

Insurance.

Liability risk retention, §23-94-203.

Insurance policy.

Property insurance, §23-88-203.

Insurance tracking.

Creditor-placed insurance,
§23-101-103.

Insured.

Minimum basic benefit policies,
§23-98-102.

Insurer.

Arkansas earthquake authority act,
§23-102-103.
Creditor-placed insurance,
§23-101-103.
Health insurance consumer protection,
§23-99-403.
Minimum basic benefit policies,
§23-98-102.
Professional liability insurance,
§23-91-203.
Property and casualty insurance
guaranty, §23-90-103.
Rural risk underwriting, §23-88-302.

Intoxicated.

Amusement ride operators, §23-89-511.

Issuing title insurance agent,
§23-103-102.**Lapse.**

Creditor-placed insurance,
§23-101-103.

Legal insurance.

Professional liability insurance,
§23-91-203.

Liability.

Liability risk retention, §23-94-203.

Licensed location.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.
Used motor vehicle buyer protection,
§23-112-602.

DEFINED TERMS —Cont'd**Licensee.**

Professional employer organizations,
§23-92-402.

Life care.

Continuing care providers, §23-93-201.

Limited dual interest insurance.

Creditor-placed insurance,
§23-101-103.

Living unit.

Continuing care providers,
§§23-93-103, 23-93-201.

Long-term care insurance,
§23-97-203.**Loss ratio.**

Creditor-placed insurance,
§23-101-103.

Insurance.

Minimum basic benefit policies,
§23-98-102.

Managed care plan.

Grievance and quality assessment and
improvement systems, §23-99-702.

Health insurance consumer protection,
§23-99-403.

Manufacturer.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

MAP.

Arkansas earthquake authority act,
§23-102-103.

Medical necessity.

Health insurance coverage for mental
illness, §23-99-507.

Member insurer.

Life and health insurance guarantee
association, §23-96-104.

Mental illness.

Health insurance coverage for mental
illness, §23-99-503.

Minimum basic benefit policy.

Insurance, §23-98-102.

Monetary advantage or penalty.

Patient protection act, §23-99-204.

**Moody's corporate bond yield
average.**

Life and health insurance guarantee
association, §23-96-104.

Motor vehicle.

Manufacturers, dealers, etc.,
§23-112-103.

Used motor vehicle buyer protection,
§23-112-602.

Motor vehicle dealer, §23-112-103.**Motor vehicle lessor.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

DEFINED TERMS —Cont'd**Motor vehicle salesman.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Net debt.

Creditor-placed insurance,
§23-101-103.

Net direct written premiums.

Arkansas earthquake authority act,
§23-102-103.

Property and casualty insurance
guarantee, §23-90-103.

Rural risk underwriting, §23-88-302.

Network.

Grievance and quality assessment and
improvement systems, §23-99-702.

New motor vehicle.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Nondestructive testing.

Amusement ride and amusement
attraction safety insurance,
§23-89-502.

Nonpayment of premium.

Casualty insurance, §23-89-301.

Nursing care.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Off-premises.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Used motor vehicle buyer protection,
§23-112-602.

Owner.

Amusement ride and amusement
attraction safety insurance,
§23-89-502.

Life and health insurance guaranty
association, §23-96-104.

Participating provider.

Health insurance consumer protection,
§23-99-403.

Payment of covered claims.

Property and casualty insurance
guaranty, §23-90-103.

Periodic physical examinations.**Insurance.**

Minimum basic benefit policies,
§23-98-102.

Permitted coverages.**Insurance.**

Minimum basic benefit policies,
§23-98-102.

Person.

Health insurance consumer protection,
§23-99-403.

Health insurance coverage for mental
illness, §23-99-503.

DEFINED TERMS —Cont'd**Person —Cont'd**

- Life and health insurance guarantee association, §23-96-104.
- Motor vehicle manufacturers, dealers, etc., §23-112-103.
- Professional employer organizations, §23-92-402.
- Property and casualty insurance guarantee, §23-90-103.
- Property insurance.
 - Rural risk underwriting, §23-88-302.
- Title insurance, agents licensing, §23-103-102.
- Used motor vehicle buyer protection, §23-112-602.

Personal care services.

- Continuing care providers, §23-93-103.
- Licensing, §23-93-201.

Personal risk liability.

- Liability risk retention, §23-94-203.

Plan of operation.

- Liability risk retention, §23-94-203.

Plan sponsor.

- Life and health insurance guaranty association, §23-96-104.

Policy.

- Casualty insurance, §23-89-301.
- Long-term care insurance, §23-97-203.

Policyholder.

- Health insurance consumer protection, §23-99-403.

Policy owner.

- Life and health insurance guaranty association, §23-96-104.

Preexisting condition.

- Long-term care insurance, §23-97-209.

Premiums.

- Life and health insurance guarantee association, §23-96-104.

Primary eye care provider,

§23-99-302.

Principal place of business.

- Life and health insurance guaranty association, §23-96-104.

Principal stockholder.

- Dog racing, §23-111-402.

Producer.

- Creditor-placed insurance, §23-101-103.

Product liability.

- Liability risk retention, §23-94-203.

Professional employer agreement,

§23-92-402.

Professional employer organization,

§23-92-402.

Professional employer organization group,

§23-92-402.

DEFINED TERMS —Cont'd**Professional employer organization service organization affidavit,**

§23-92-402.

Professional employer services,

§23-92-402.

Property damage.

Casualty insurance, §23-89-404.

Provider.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Purchasing group.

Liability risk retention, §23-94-203.

Qualified family.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified group.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified individual.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified long-term care insurance contract.

Long-term care insurance, §23-97-203.

Qualified long-term care services.

Insurance, §23-97-203.

Receivership court.

Life and health insurance guaranty association, §23-96-104.

Refund reserve.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Relevant market area.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Renewal.

Casualty insurance, §23-89-301.

Resident.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Life and health insurance guarantee association, §23-96-104.

Retail sale.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Risk retention group.

Liability risk retention, §23-94-203.

Sale.

Used motor vehicle buyer protection, §23-112-602.

Sale at retail.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

DEFINED TERMS —Cont'd**Second stage manufacturer.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Sell.

Title insurance, agents licensing,
§23-103-102.

Used motor vehicle buyer protection,
§23-112-602.

Signing title insurance agent,
§23-103-102.**Single interest insurance.**

Creditor-placed insurance,
§23-101-103.

Small employer.

Health insurance coverage for mental
illness, §23-99-503.

Solicit.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Specialty.

Health insurance consumer protection,
§23-99-403.

Specialty vehicle.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

State.

Liability risk retention, §23-94-203.
Life and health insurance guaranty
association, §23-96-104.

Structured settlement annuity.

Life and health insurance guaranty
association, §23-96-104.

Supplemental contract.

Life and health insurance guarantee
association, §23-96-104.

Temporary help services.

Professional employer organizations,
§23-92-402.

Temporary permit.

Motor vehicle manufacturers and
dealers, §23-112-103.

Third party administrator.

Multiple employer trusts and
self-insured plans, §23-92-201.

Title insurance.

Agents licensing, §23-103-102.

Title insurance agent.

Title insurance, agents licensing,
§23-103-102.

Title insurer.

Title insurance, agents licensing,
§23-103-102.

Transacting insurance.

Professional employer organizations,
§23-92-402.

Type.

Health insurance consumer protection,
§23-99-403.

DEFINED TERMS —Cont'd**Ultimate purchaser.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Unallocated annuity contract.

Life and health insurance guaranty
association, §23-96-104.

Unfairly compete.

Motor vehicle dealers, distributors,
manufacturers and salespersons,
§23-112-403.

Used motor vehicle.

Buyer protection, §23-112-602.
Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Used motor vehicle dealer.

Buyer protection, §23-112-602.
Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Used motor vehicle salesman.

Buyer protection, §23-112-602.

Wholesaler.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.
Used motor vehicle buyer protection,
§23-112-602.

**DENTAL POINT OF SERVICE
OPTION.****Health insurance carriers,**

§§23-99-601 to 23-99-608.

Applicability of subchapter,
§23-99-608.

Attorney General to defend
subchapter, §23-99-607.

Benefits offered same as offered
through network, §23-99-604.

Coverage for out-of-network dentists,
§23-99-604.

Definitions, §23-99-603.

Dental point of service act, §23-99-601.

Effective date, §23-99-608.

Enforcement authority of insurance
commissioner, §23-99-606.

Findings of general assembly,
§23-99-602.

Purposes, §23-99-602.

Rules and regulations, §23-99-605.

DISABILITY INSURANCE.**Health insurance.**

Generally.

See HEALTH INSURANCE.

**Life and health insurance guaranty
association,** §§23-96-101 to
23-96-121.

See LIFE AND HEALTH
INSURANCE GUARANTY
ASSOCIATION.

DOGS.**Greyhound racing.**

See GREYHOUND RACING.

DRIVE-THRU DELIVERIES.**Health insurance, §23-99-404.****DRUGS.****Health insurance.**

Prescriptions.

Formulary for prescription drugs,
§23-99-409.**E****EARTHQUAKE AUTHORITY,**

§§23-102-101 to 23-102-119.

Administrative assessment,

§23-102-112.

Amount of coverage offered,

§23-102-113.

**Appeals of ruling or decision of
board, §23-102-115.****Assessment by insurers, §23-102-112.****Board.**Executive director or plan
administrator, appointment,
§23-102-111.Membership, terms, vacancies and
expenses, §23-102-105.Plan of operation, adoption,
§23-102-107.

Powers, §23-102-108.

Body politic of state, §23-102-104.**Contributions, initial operating
capital, §23-102-112.****Coordination with federal or
multistate program, §23-102-117.****Coverage accessible through
authority, §23-102-110.****Created, §23-102-104.****Deductibles determined by board,
§23-102-113.****Definitions, §23-102-103.****Eligibility for residential
earthquake insurance.**

Notice to policyholders, §23-102-114.

Executive director.Appointment by board, duties,
§23-102-111.**Exemption from property and
casualty insurance guaranty act,
§23-102-118.****Exemption from taxes, §23-102-104.****Immunity of participating insurers,
authority agents or employees,
etc., §23-102-106.****Intent of provisions, §23-102-102.****EARTHQUAKE AUTHORITY —Cont'd****Legislative findings, §23-102-102.****Living expenses, coverage for,
§23-102-113.****Market assistance program,
§23-102-109.**Suspension, availability and
competition in marketplace,
§23-102-107.**Noticed as to eligibility for
insurance, §23-102-114.****Participation by insurers in market
assistance program, §23-102-109.****Personal property, coverage for,
§23-102-113.****Plan administrator.**Appointment by board, duties,
§23-102-111.**Plan of operation, §23-102-107.****Political subdivision, authority
created as, §23-102-104.****Powers of board, §23-102-108.****Purchasing law and procurement
act, exemption, §23-102-104.****Rates for plan coverage, §23-102-112.****Rulemaking authority, §23-102-116.****Short title, §23-102-101.****Suspension of operations of market
assistance program or authority.**Sufficient availability and competition
in marketplace, §23-102-107.**Termination of authority,
§23-102-119.****ELECTIONS.****Greyhound racing.**

Franchises to conduct races.

See GREYHOUND RACING.

Horse racing.

Franchises to conduct horse races.

See HORSE RACING.

Racing meets.

Sunday racing, §23-110-402.

EMPLOYERS AND EMPLOYEES.**Greyhound racing.**Employees of franchise holders,
§23-111-308.**Horse racing.**Employees of franchise holders,
§§23-110-308, 23-110-412.**ETHICS.****Conflicts of interest.**

General provisions.

See CONFLICTS OF INTEREST.

EVIDENCE.**Title insurance.**

Policies.

Evidentiary effect, §23-103-314.

EXAMINATIONS.**Continuing care providers.**

Insolvent facilities.

Financial examinations conducted,
§23-93-114.

Legal insurance.

Affairs of insurers, §23-91-220.

EYE CARE PROVIDERS.**Health insurance.**

Primary eye care providers,
§§23-99-301 to 23-99-305.

See HEALTH INSURANCE.

F**FEES.****Continuing care providers.**

Facility entrance fee.

Defined, §23-93-201.

Licensed application fees, §23-93-206.

Greyhound racing.

Franchises to conduct races,
§23-111-305.

Licenses.

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

Legal insurance.

Payment to commissioner, §23-91-225.

Professional employer organizations.

Employer service assurance
organization affidavit, §23-92-414.

Licenses, §23-92-407.

Title insurance.

Agents.

Licenses, §23-103-204.

FELONIES.**Amusement rides and attractions.**

Operation without safety inspection
and insurance.

Willful or knowing violation,
§23-89-504.

Dogs.

Racing.

Improper wagering, §23-111-508.

Horse racing.

Improper wagering, §23-110-405.

Title insurance.

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.

FINANCE.**Contracts.**

Public contracts.

See CONTRACTS.

FINES.**Dog racing.**

Failure to appear or testify at
hearings, §23-111-205.

Failure to comply with franchise,
§23-111-501.

Failure to pay tax, §23-111-513.

False affidavits of officers and
directors, §23-111-406.

Improper wagering, §23-111-508.

Issuance of sales tax-free passes,
§23-111-510.

Horse racing.

Compliance with license, §23-110-401.

Failure to pay tax, §23-110-415.

False applications for employment,
§23-110-308.

Improper wagering, §23-110-405.

Issuance of sales tax-free passes,
§23-110-411.

Motor vehicles.

Licenses.

Dealers, distributors, manufacturers
and salespersons.

Enforcement of provisions,
§23-112-314.

Professional employer organizations.

Penalties for violations, §23-92-412.

Property and casualty insurance guaranty.

Failure to pay assessments,
§23-90-113.

Property insurance.

Willful violations by insurer,
§23-88-204.

Title insurance.

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.

FIREFIGHTERS.**Fires and fire prevention.**

Arson generally.

See ARSON.

FIRE PROTECTION DISTRICTS.**Insurance.**

Rate credit on risks.

Legislative findings and intent,
§23-88-103.

Only for persons who pay dues and
subscription payments to
district, §23-88-103.

Rural fire protection districts,
§23-88-103.

Rural volunteer fire departments.

Rate credit on risks, §23-88-103.

FIRE PROTECTION DISTRICTS

—Cont'd

Insurance —Cont'd

Rural volunteer fire departments

—Cont'd

Response to fire.

Insurer required to pay reasonable costs of services from insurance proceeds, §23-88-102.

Written and signed release from fire chief required prior to disbursing remaining proceeds, §23-88-102.

FIRES AND FIRE PREVENTION.**Arson generally.**

See ARSON.

Insurance.

Fire loss reporting act.

Property insurance, §§23-88-401 to 23-88-405.

Rating plans, fire protection impact statement, §23-88-104.

FRANCHISES.**Greyhound racing.**

Franchise to conduct races.

See GREYHOUND RACING.

Horse racing.

Franchise to conduct races.

See HORSE RACING.

FRAUD.**Insurance.**

Fraudulent insurance acts.

See INSURANCE.

Insurance fraud investigation division, §§23-100-101 to 23-100-107.

See INSURANCE.

FUNDS.**Horse racing.**

Arkansas racing commission purse and awards funds, §23-110-409.

Insurance.

Insurance fraud investigation division trust fund, §§23-100-101 to 23-100-107.

See INSURANCE.

G**GAG CLAUSES.****Health insurance.**

Prohibition, §23-99-407.

GAMBLING.**Greyhound racing.**

Wagering.

See GREYHOUND RACING.

GAMBLING —Cont'd**Horse racing.**

Wagering.

See HORSE RACING.

Pari-mutuel wagering.

Greyhound racing, §23-111-508.

Horse racing, §23-110-405.

GO KARTS.**Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

GOOD FAITH.**Motor vehicle manufacturers and dealers.**

Definition, §23-112-103.

GREYHOUND RACING.

Additional racing days, §§23-111-502, 23-111-505, 23-111-515.

Admission tax, §23-111-510.**Affidavits.**

Residence of officers and directors of franchise holders, §23-111-406.

Penalty for false affidavit, §23-111-406.

Appeals.

Franchises to conduct races.

Refusal to grant temporary franchise, §23-111-302.

Applicability of provisions.

Nonapplicability to other methods or forms of racing, §23-111-102.

Bonds, surety.

Franchise holders, §23-111-514.

Citation of law.

Short title, §23-111-101.

Community colleges.

Racing meets.

Use of revenue derived from additional racing days, §23-111-515.

Conflicts of interest.

Racing commission.

Persons prohibited from membership, §23-111-202.

Employees.

Health insurance.

Proceeds from wagering to fund, §23-111-516.

Fees.

Franchises to conduct races, §23-111-305.

Licenses.

Disposition of license fees, §23-111-104.

Greyhound owners, §23-111-507.

Greyhound trainers, §23-111-507.

GREYHOUND RACING —Cont'd**Fees —Cont'd**

Licenses —Cont'd

Racing meets, §23-111-506.

Felonies.

Wagering.

Methods other than pari-mutuel or certificate method, §23-111-508.

Franchises to conduct races.

Appeals.

Refusal to grant temporary franchise, §23-111-302.

Applications for, §23-111-302.

Additional information, §23-111-404.

Deposit to accompany, §23-111-302.

Bonds, surety.

Franchise holder, §23-111-514.

Construction of racing plant, §23-111-305.

Elections.

Approval of electors required, §23-111-303.

Ballots, §23-111-304.

Conduct of elections, §23-111-304.

Contests, §23-111-304.

Generally, §23-111-304.

Notice, §23-111-304.

Subsequent elections, §23-111-306.

Employees of franchise holders.

Health insurance.

Proceeds from wagering to fund, §23-111-516.

Restrictions concerning, §23-111-308.

Fee, §23-111-305.

Granted prior to July 1, 1957, §23-111-307.

Granting, §23-111-203.

Approval of electors required, §23-111-303.

Limitations on issuance, §23-111-301.

Health insurance for franchise holder's employees, §23-111-516.

Hearing on application, §23-111-302.

Number of franchises.

Limitations, §23-111-301.

Officers, directors and shareholders of franchise holder.

Additional information in application for franchise, §23-111-404.

Changes in management personnel and ownership of stock.

Franchise holders to report, §23-111-407.

Grounds for refusing franchise, §23-111-405.

GREYHOUND RACING —Cont'd**Franchises to conduct races —Cont'd**

Officers, directors and shareholders of franchise holder —Cont'd

Investigations.

Considerations, §23-111-405.

Cooperation with federal and state officers and agencies, §23-111-408.

Power of commission, §23-111-405.

Special investigators, §23-111-409.

Legislative declaration, §23-111-401.

Principal stockholder.

Defined, §23-111-402.

Purpose of provisions, §23-111-401.

Residence requirement for officers and directors, §23-111-406.

Affidavit, §23-111-406.

Penalty for false affidavit, §23-111-406.

Supplemental nature of provisions, §23-111-403.

Racing meets.

Racing meets to be held only in accordance with franchises, §23-111-501.

Refusal of temporary franchise.

Grounds, §23-111-405.

Required, §23-111-501.

Temporary franchise, §23-111-302.

Greyhound owners.

Licenses.

Fee, §23-111-507.

Greyhound trainers.

Licenses.

Fee, §23-111-507.

Health insurance for franchise

holder's employees, §23-111-516.

Hearings.

Franchises to conduct races.

Hearing on application, §23-111-302.

Racing commission, §23-111-205.

Indigent persons.

Racing meetings.

Additional racing days.

Use of revenue derived from, §23-111-505.

Investigations.

Officers, directors and shareholders of franchise holders, §§23-111-405, 23-111-409.

Legalized, §23-111-301.**Licenses.**

Fees.

Disposition of license fees, §23-111-104.

Greyhound owners, §23-111-507.

Greyhound trainers, §23-111-507.

GREYHOUND RACING —Cont'd**Licenses —Cont'd****Fees —Cont'd**

Racing meets, §23-111-506.

Greyhound owners.

Fee, §23-111-507.

Greyhound trainers.

Fee, §23-111-507.

Racing meets, §23-111-506.

Application for, §23-111-506.

Fees, §23-111-506.

Required, §23-111-506.

Minors.

Employment by franchise holders.

Prohibited, §23-111-308.

Patrons at race tracks.

Prohibited, §23-111-308.

Wagering.

Prohibited, §23-111-508.

Misdemeanors.

Conducting racing meet other than in accordance with franchise, §23-111-501.

Nonpayment of taxes by franchise holders, §23-111-513.

Residence requirement for officers and directors of franchise holders.

False affidavit as to, §23-111-406.

Subpoenas of racing commission.

Noncompliance, §23-111-205.

Municipalities.

Racing meets.

Small municipalities.

Use of revenue derived from additional racing days, §23-111-515.

Notice.

Franchises to conduct races.

Elections, §23-111-304.

Passes.

Distribution, §23-111-105.

Maximum number, §23-111-105.

Penalties.

Conducting racing meet other than in accordance with franchise, §23-111-501.

Disposition of fines, §23-111-104.

Nonpayment of taxes by franchise holders, §23-111-513.

Residence requirement for officers and directors of franchise holders.

False affidavit as to, §23-111-406.

Subpoenas of racing commission.

Noncompliance, §23-111-205.

Wagering.

Methods other than pari-mutuel or certificate method, §23-111-508.

GREYHOUND RACING —Cont'd**Racing commission.**

Construction of references to "commission," §23-111-201.

Duties, §23-111-203.

Hearings, §23-111-205.

Persons prohibited from membership, §23-111-202.

Powers, §23-111-203.

Right of entry, §23-111-512.

Rules and regulations, §23-111-204.

Racing days.

Additional racing days.

Audits, §23-111-502.

Benefit of small municipalities and community colleges, §23-111-515.

Disaster victims, indigent persons and educational purposes, §23-111-505.

Purposes for which held, §23-111-505.

Racing meets.

Additional racing days.

Audits, §23-111-502.

Deposit of net proceeds, §23-111-502.

Distribution of net proceeds to municipalities, §23-111-504.

Purposes for which held, §23-111-505.

Rules and regulations, §23-111-503.

Small municipalities and community colleges, §23-111-515.

Admission tax, §23-111-510.

Community colleges.

Additional racing days.

Use of revenue derived from, §23-111-515.

Day racing, §23-111-502.

Franchises to conduct races.

Racing meets to be held only in accordance with franchises, §23-111-501.

Holidays, §23-111-502.

Hours, §23-111-502.

Indigent persons.

Additional racing days.

Use of revenue derived from, §23-111-505.

Licenses, §23-111-506.

Application for, §23-111-506.

Fees, §23-111-506.

Required, §23-111-506.

Night racing, §23-111-502.

Number of racing meets during year, §23-111-502.

GREYHOUND RACING —Cont'd**Racing meets —Cont'd**

Small municipalities.

Additional racing days.

Use of revenue derived from,
§23-111-515.

Racing passes.

Distribution, §23-111-105.

Maximum number, §23-111-105.

Records.

Franchise holders, §23-111-511.

Amount of moneys wagered,
§23-111-509.

Racing commission to have access,
§23-111-512.

Rules and regulations.

Racing commission, §23-111-204.

Subpoenas.

Powers of racing commission,
§23-111-205.

Taxation.

Admission tax, §23-111-510.

Disposition of revenue, §23-111-517.

Disposition of taxes, §23-111-104.

Title of law.

Short title, §23-111-101.

Wagering.

Disposition of moneys wagered,
§23-111-509.

Health insurance for employees,
§23-111-516.

Felonies.

Methods other than pari-mutuel or
certificate method, §23-111-508.

Minors.

Betting by.

Prohibited, §23-111-508.

Pari-mutuel or certificate method.

Authorized at licensed tracks,
§23-111-508.

Penalties.

Methods other than pari-mutuel or
certificate method, §23-111-508.

Simultaneously televised horse or
greyhound races, §23-111-508.

Statutes prohibiting betting on racing.
Inapplicable, §23-111-103.

Witnesses.

Powers of racing commission as to,
§23-111-205.

GRIEVANCE SYSTEMS.**Managed health care plans,**

§§23-99-701 to 23-99-706.

See MANAGED CARE PLANS.

GROUP AND BLANKET HEALTH INSURANCE.

See HEALTH INSURANCE.

GYNECOLOGICAL SERVICES.**Health insurance.**

Required coverage, §23-99-406.

H**HEAD HUNTERS.****Professional employer**

organizations, §§23-92-401 to
23-92-419.

See PROFESSIONAL EMPLOYER
ORGANIZATIONS.

HEALTH.**Continuing care providers,**

§§23-93-101 to 23-93-207.

See CONTINUING CARE
PROVIDERS.

Insurance.

Health care benefit providers.

See HEALTH INSURANCE.

Health insurance generally.

See HEALTH INSURANCE.

Mental health.

General provisions.

See MENTAL HEALTH.

HEALTH CARE PORTABILITY AND ACCOUNTABILITY.**Generally.**

See HEALTH INSURANCE.

HEALTH INSURANCE.**Breast cancer.**

Mastectomies.

Required coverage, §23-99-405.

Consumer protection, §§23-99-401 to
23-99-416.

Application of provisions, §23-99-416.

Applications of providers, §23-99-411.

Benefits, §23-99-404.

Continuity of care, §23-99-408.

Definitions, §23-99-403.

Disclosures, §23-99-413.

Enforcement, §23-99-415.

Gag clause, §23-99-407.

Grievances, §23-99-410.

Legislative findings, §23-99-402.

Mastectomies, §23-99-405.

Prescription drugs, §23-99-409.

Provider input, §23-99-412.

Regulations, §23-99-414.

Services, §23-99-406.

Short title, §23-99-401.

Continuity of care.

Required, §23-99-408.

Dental point of service option,

§§23-99-601 to 23-99-608.

Applicability of subchapter,
§23-99-608.

HEALTH INSURANCE —Cont'd**Dental point of service option**

—Cont'd

- Attorney General to defend subchapter, §23-99-607.
- Benefits offered same as offered through network, §23-99-604.
- Coverage for out-of-network dentists, §23-99-604.
- Definitions, §23-99-603.
- Effective date, §23-99-608.
- Enforcement authority of insurance commissioner, §23-99-606.
- Findings of general assembly, §23-99-602.
- Purposes, §23-99-602.
- Rules and regulations, §23-99-605.
- Title of act, §23-99-601.

Disclosure requirements, §23-99-413.

- Gag clause prohibition, §23-99-407.

Drive-thru deliveries.

- Required coverage, §23-99-404.

Drugs.

- Prescriptions.
 - Formulary for prescription drugs.
 - Exceptions, §23-99-409.

Gag clauses.

- Prohibition, §23-99-407.

Greyhound racing franchise holder's employees, §23-111-516.**Grievance procedures, §23-99-410.****Grievance systems and quality assessment and improvement systems.**

- Managed care plans, §§23-99-701 to 23-99-706.
 - Benefits offered, inapplicability of director's regulatory authority, §23-99-705.
 - Definitions, §23-99-702.
 - Grievance system, §23-99-703.
 - Insurance exempted from provisions, §23-99-705.
 - Legislative findings, §23-99-701.
 - Power to implement and enforce provisions, §23-99-706.
 - Quality assessment and improvement systems, §23-99-704.

Gynecological services.

- Required coverage, §23-99-406.

Health care providers.

- Applicability of provisions.
 - Exemptions, §23-99-209.
- Citation of act.
 - Short title, §23-99-201.
- Civil penalties, §23-99-207.
- Definitions, §§23-99-203, 23-99-204.

HEALTH INSURANCE —Cont'd**Health care providers —Cont'd**

- Effective date of provisions, §23-99-208.
- Exemptions from provisions, §23-99-209.
- Findings and intent of legislature, §23-99-202.
- Health benefit plans.
 - Defined, §23-99-203.
 - Prohibited terms, §23-99-204.
 - Void provisions, §23-99-208.
- Interpretation and construction, §23-99-205.
- Legislative declaration, §23-99-202.
- Prohibited acts, §23-99-206.
- Title of act.
 - Short title, §23-99-201.

Mastectomies.

- Required coverage, §23-99-405.

Maternity.

- Obstetrical and gynecological services.
 - Required coverage, §23-99-406.
- Required coverage, §23-99-404.

Mental health.

- Applicability, §23-99-509.
- Definitions, §23-99-503.
- Enforcement, §23-99-511.
- Exclusions, §23-99-504.
- Exemptions.
 - Increased costs, §23-99-505.
- Increased costs.
 - Exemption, §23-99-505.
- Intent of state, §23-99-502.
- Medical necessity, §23-99-507.
- Parity requirements, §23-99-506.
- Provisions permitted, §23-99-508.
- Required coverage, §§23-99-501 to 23-99-511.
- Rules and regulations, §23-99-510.
- Short title, §23-99-501.

Obstetrical services.

- Required coverage, §23-99-406.

Patient protection act of 1995.

- Generally, §§23-99-201 to 23-99-209.
 - See within this heading, "Health care providers."

Prescription drug benefits.

- Formulary for prescription drugs.
 - Procedure for exceptions, §23-99-409.

Primary eye care providers.

- Citation of act.
 - Short title, §23-99-301.
- Definitions, §23-99-302.
- Health benefit plans.
 - Defined, §23-99-302.
 - Requirements, §23-99-303.

HEALTH INSURANCE —Cont'd**Primary eye care providers —Cont'd**

Remedies for violations, §23-99-305.

Right to receive treatment from personal doctor.

Provisions not to prevent treatment, §23-99-304.

Title of act.

Short title, §23-99-301.

Providers.

Input required, §23-99-412.

Processing applications, §23-99-411.

Rules and regulations.

Consumer protection, §23-99-414.

Mental health coverage, §23-99-510.

HEALTH MAINTENANCE ORGANIZATIONS.**Dental point of service option, §§23-99-601 to 23-99-608.**

See DENTAL POINT OF SERVICE OPTION.

Grievance systems and quality assessment and improvement programs, §§23-99-701 to 23-99-706.

See MANAGED CARE PLANS.

Health insurance.

Generally.

See HEALTH INSURANCE.

HEARINGS.**Continuing care providers.**

Licenses.

Disciplinary actions, §23-93-205.

Reconsideration of denied application, §23-93-206.

Greyhound racing.

Franchises to conduct races.

Hearing on application, §23-111-302.

Racing commission, §23-111-205.

Horse racing.

Franchises to conduct horse races.

Hearing on application, §23-110-302.

Racing commission, §23-110-205.

Insurance.

Risk-sharing plans for property and casualty insurance.

Availability of any amount or kind of insurance, §23-95-104.

Motor vehicles.

Licenses.

Dealers, distributors, manufacturers and salespersons.

Denial, revocation or suspension of license, §§23-112-501 to 23-112-509.

Appeals, §23-112-506.

Call for hearing, §23-112-502.

HEARINGS —Cont'd**Motor vehicles —Cont'd**

Licenses —Cont'd

Dealers, distributors, manufacturers and salespersons —Cont'd

Denial, revocation or suspension of license —Cont'd

Conduct, §23-112-504.

Decisions, §23-112-505.

Exhaustion of remedies, §23-112-507.

Location, §23-112-503.

Notice, §23-112-503.

Right to hearing, §23-112-501.

Rules of order or procedure, §23-112-508.

Summons, citation and subpoena, §23-112-509.

Motor vehicle commission.

Licenses.

Dealers, distributors, manufacturers and salespersons.

Denial, revocation or suspension of license, §§23-112-501 to 23-112-509.

HEIRS.**Franchises.**

Motor vehicles, §23-112-403.

HORSE RACING.**Admission tax, §23-110-411.****Appeals.**

Findings and orders of racing commission, §23-110-205.

Franchises to conduct horse races.

Refusal to grant, §23-110-302.

Applicability of provisions.

Nonapplicability to other methods or forms of racing, §23-110-103.

Bonds, surety.

Franchise holders, §23-110-414.

Racing commission.

Secretary, §23-110-202.

Breaks, computing, §23-110-410.**Citation of law.**

Short title, §23-110-101.

Conflict of laws.

Statutes prohibiting betting on racing inapplicable, §23-110-102.

Conflicts of interest.

Racing commission.

Persons prohibited from membership, §23-110-201.

Elections.

Racing meets.

Sunday racing, §23-110-402.

HORSE RACING —Cont'd**Employees of franchise holders.**

Applications for employment,
§23-110-308.

Racing commission authorized to
examine, §23-110-308.

Misdemeanors.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.

Failure to comply with order for
adjustment, §23-110-308.

Penalties.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.

Failure to comply with order for
adjustment, §23-110-308.

Registered voters in Arkansas.

Percentage of employees required to
be, §23-110-308.

Time for adjustment, §23-110-308.

Fees.

Franchises to conduct horse races,
§23-110-305.

Licenses.

Disposition of fees, §23-110-104.

Horse owners, §23-110-404.

Horse trainers, §23-110-404.

Jockeys and jockey agents,
§23-110-404.

Racing meets, §23-110-403.

Franchises to conduct horse races.

Applications for franchises,
§23-110-302.

Bond of franchise holder, §23-110-414.

Construction of racing plant,
§23-110-305.

Elections.

Approval of electors, §23-110-303.

Ballots, §23-110-304.

Conduct of elections, §23-110-304.

Contests, §23-110-304.

Continuing horse racing in county.
Special election, §23-110-306.

Notice, §23-110-304.

Proclamation of result, §23-110-304.

Subsequent elections, §23-110-306.

Fees, §23-110-305.

Franchises granted prior to July 1,
1957, §23-110-307.

Granting of franchises, §23-110-301.
Approval of electors required,
§23-110-303.

HORSE RACING —Cont'd**Franchises to conduct horse races****—Cont'd****Granting of franchises —Cont'd**

Granted prior to July 1, 1957,
§23-110-307.

Limitations on issuance,
§23-110-301.

Hearing on application for franchise,
§23-110-302.

Number of franchises.

Limitations, §23-110-301.

Refusal to grant, §23-110-302.

Appeal, §23-110-302.

Temporary franchise, §23-110-302.

Franchise issued in exchange for
temporary franchise,
§23-110-305.

Wagering.

Disposition of money wagered.

Portion for franchise holder,
§23-110-407.

Funds.**Wagering.**

Arkansas racing commission purse
and awards funds, §23-110-409.

Hearings.

Franchises to conduct horse races.

Hearing on application, §23-110-302.

Racing commission, §23-110-205.

Horse owners.**Licenses.**

Fee, §23-110-404.

Horse trainers.**Licenses.**

Fee, §23-110-404.

Investigations.

Racing commission, §23-110-413.

Jockeys and jockey agents.**Licenses.**

Fee, §23-110-404.

Legalized, §23-110-301.**Licenses.****Fees.**

Disposition of fees, §23-110-104.

Horse owners, §23-110-404.

Horse trainers, §23-110-404.

Jockeys and jockey agents,
§23-110-404.

Racing meets, §23-110-403.

Horse owners.

Fee, §23-110-404.

Horse trainers.

Fee, §23-110-404.

Jockeys and jockey agents.

Fee, §23-110-404.

Racing meets, §23-110-403.

Applications, §23-110-403.

Fee, §23-110-403.

HORSE RACING —Cont'd**Licenses —Cont'd**

Racing meets —Cont'd

Holding without license.

Penalties, §23-110-401.

Number of meets.

Limitation on, §23-110-402.

Required, §23-110-403.

Minors.

Wagering.

Prohibited for persons under 18,
§23-110-405.**Misdemeanors.**

Employees of franchise holders.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.Failure to comply with order for
adjustment, §23-110-308.Failure of franchise holders to pay
taxes, §23-110-415.

Racing meetings.

Holding racing meet without license,
§23-110-401.

Subpoenas of racing commission.

Noncompliance, §23-110-205.

Wagering.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.**Notice.**

Franchises to conduct horse races.

Elections, §23-110-304.

Racing meets.

Sunday racing.

Notice of election, §23-110-402.

Oaths.

Racing commission.

Oath of office of members,
§23-110-201.**Passes.**

Distribution, §23-110-105.

Maximum number, §23-110-105.

Penalties.

Disposition of fines, §23-110-104.

Employees of franchise holders.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.Failure to comply with order for
adjustment, §23-110-308.Failure of franchise holders to pay
taxes, §23-110-415.**HORSE RACING —Cont'd****Penalties —Cont'd**

Racing meets.

Holding racing meet without license,
§23-110-401.

Subpoenas of racing commission.

Noncompliance, §23-110-205.

Racing commission.

Appointment of members, §23-110-201.

Conflicts of interest.

Persons prohibited from
membership, §23-110-201.

Creation, §23-110-201.

Duties.

Generally, §23-110-204.

Expenses of members, §23-110-201.

Hearings, §23-110-205.

Investigations, §23-110-413.

Meetings, §23-110-203.

Number of members, §23-110-201.

Oath of office of members,
§23-110-201.

Officers, §23-110-202.

Per diem of members, §23-110-201.

Powers and duties.

Generally, §§23-110-204, 23-110-205.

Qualifications of members,
§23-110-201.Persons prohibited from
membership, §23-110-201.

Quorum, §23-110-203.

Removal of members, §23-110-201.

Right of entry, §23-110-413.

Secretary.

Bonds, surety, §23-110-202.

Director of department of finance
and administration,
§23-110-202.

Duties, §23-110-202.

Employment of personnel,
§23-110-202.

Terms of members, §23-110-201.

Racing meets.

Admission tax, §23-110-411.

Elections.

Sunday racing, §23-110-402.

Licenses, §23-110-403.

Applications, §23-110-403.

Fee, §23-110-403.

Holding without license.

Penalties, §23-110-401.

Number of meets.

Limitation on, §23-110-402.

Required, §23-110-403.

Misdemeanors.

Holding racing meet without license,
§23-110-401.

HORSE RACING —Cont'd**Racing meets —Cont'd**

Notice.

Sunday racing.

Notice of election, §23-110-402.

Number of days in one meet,
§23-110-402.Number of meets during year,
§23-110-402.

Penalties.

Holding racing meet without license,
§23-110-401.

Racing programs.

Submission for approval,
§23-110-402.

Sunday racing, §23-110-402.

Wagering programs.

Submission for approval,
§23-110-402.Writing various races for each racing
meet.Franchise holder responsible for,
§23-110-409.**Racing passes.**

Distribution, §23-110-105.

Maximum number, §23-110-105.

Records.

Franchise holders, §23-110-412.

Racing commission to have access to
records, §23-110-413.**Subpoenas.**

Racing commission.

Powers, §23-110-205.

Sunday.

Racing meets.

Sunday racing, §23-110-402.

Taxation.

Admission tax, §23-110-411.

Disposition of taxes, §23-110-104.

Title of law.

Short title, §23-110-101.

Wagering.

Breaks, computing, §23-110-410.

Disposition of money wagered.

Arkansas racing commission purse
and awards fund, §23-110-409.

Breaks, §23-110-410.

Funds.

Arkansas racing commission purse
and awards fund,
§23-110-409.

Generally, §23-110-406.

Payment to winning bettors
required, §23-110-406.Portion for franchise holder,
§23-110-407.

Minors.

Wagering by persons under 18
prohibited, §23-110-405.**HORSE RACING —Cont'd****Wagering —Cont'd**

Misdemeanors.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.Pari-mutuel or certificate method.
Authorized at licensed track,
§23-110-405.

Penalties.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.Races run at other race tracks shown
live by television or otherwise.Franchise holder may enter into
agreements whereby patrons
may wager on, §23-110-405.

Racing meets.

Wagering programs.

Submission for approval,
§23-110-402.Statutes prohibiting betting on racing.
Inapplicable, §23-110-102.**Witnesses.**

Racing commission.

Powers as to, §23-110-205.

**HOSPITAL AND MEDICAL SERVICE
CORPORATIONS.****Dental point of service option,**
§§23-99-601 to 23-99-608.See DENTAL POINT OF SERVICE
OPTION.**Health insurance.**

Generally.

See HEALTH INSURANCE.

I**IMMUNITY.****Arkansas earthquake authority,**
§23-102-106.**Insurance.**Life and health insurance guaranty
association, §23-96-108.Risk retention and purchasing groups,
§§23-94-201 to 23-94-215.See RISK RETENTION AND
PURCHASING GROUPS.Risk-sharing plans for property and
casualty insurance.Commissioner, representatives or
any plan, its participants or
employees, §23-95-107.**INCOME WITHHOLDING.****Insurance.**

Minimum basic benefit policies.

Payroll deduction, §23-98-108.

INDIGENT PERSONS.**Greyhound racing.**

Racing meets..

Additional racing days.

Use of revenue derived from,
§23-111-505.

INJUNCTIONS.**Continuing care providers.**

Enforcement of chapter, §23-93-104.

Insurance.

Health insurance.

Primary eye care providers.

Remedies for violations,
§23-99-305.

Risk retention and purchasing groups.

Authority of commissioner,
§23-94-212.

United States district court.

Binding effect of orders issued in,
§23-94-214.

Motor vehicles.

Licenses.

Dealers, distributors, manufacturers
and salespersons.

Violations of provisions,
§23-112-104.

Professional employer organizations.

Penalties for violations, §23-92-412.

Risk retention and purchasing groups.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in,
§23-94-214.

INSPECTIONS.**Amusements.**

Amusement ride and amusement
attraction safety insurance.

Safety inspections, §§23-89-504,
23-89-507.

INSURANCE.**Accident insurance.**

Casualty insurance generally.

See CASUALTY INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

Accounts and accounting.

Life and health insurance guaranty
association.

Accident and health insurance
account.

Maintenance by association,
§23-96-109.

Life insurance and annuity account.

Maintenance by association,
§23-96-109.

INSURANCE —Cont'd**Actions.**

Casualty insurance.

No liability or cause of action
against person for information
or statements relating to
cancellation or nonrenewal of
policies, §23-89-308.

Advertising.

Life and health insurance guaranty
association act.

Advertisement of act in insurance
sales.

Prohibited, §23-96-105.

Long-term care insurance.

Compliance with subchapter.

Required, §23-97-205.

Property and casualty insurance
guaranty.

Prohibited advertisements or
statements, §23-90-121.

Agents.

Licenses.

Risk retention and purchasing
groups, §§23-94-211, 23-94-213.

Title insurance.

Licensing, §§23-103-101 to
23-103-316.

See TITLE INSURANCE.

Amusement ride and amusement attraction safety insurance, §§23-89-501 to 23-89-518.**Annuities.**

Guaranty association.

Life and health insurance guaranty
association, §§23-96-101 to
23-96-121.

See LIFE AND HEALTH
INSURANCE GUARANTY
ASSOCIATION.

Antiarson applications, §§23-88-201 to 23-88-210.

See ARSON.

Antifraud assessment, §§23-100-104, 23-100-105.**Appeals.**

Property and casualty insurance
guaranty.

Rulings of commissioner,
§23-90-123.

Rural risk underwriting association.

Applicants for policy, persons
insured under plan and others
affected by plan may appeal to
commissioner, §23-88-309.

Arson.

Antiarson applications, §§23-88-201 to
23-88-210.

See ARSON.

INSURANCE —Cont'd**Assessments.**

- Life and health insurance guaranty association.
- Assessment of member insurers, §23-96-115.
- Property and casualty insurance guaranty.
- Accounting for and repayment of assessments, §23-90-114.
- Claims, §23-90-112.
- Taxation.
- Credit against taxes, §23-90-119.
- Rural risk underwriting association.
- Governing board empowered to make, §23-88-306.

Assigned risk.

- Casualty insurance.
- Eligibility for automobile liability insurance through automobile liability assigned risk plan, §23-89-307.

Assignments.

- Life and health insurance guaranty association.
- Assignment rights, §23-96-114.

Associations.

- Life and health insurance guaranty association, §§23-96-101 to 23-96-121.
- See LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION.

Attorneys at law.

- Legal insurance, §§23-91-201 to 23-91-227.
- See ATTORNEYS AT LAW.

Benefits.

- Casualty insurance.
- Exclusion of benefits, §23-89-205.
- Minimums, §23-89-201.
- Payments under coverage, §23-89-208.
- Reimbursement.
- Insurers' rights of reimbursement, §23-89-207.
- Life and health insurance guaranty association.
- Assignment or subrogation of rights, §23-96-114.
- Liability, §23-96-114.
- Minimum basic benefit policies, §23-98-106.

Blanket insurance.

- Health insurance.
- Group and blanket health insurance.
- See HEALTH INSURANCE.

INSURANCE —Cont'd**Brokers.**

- Risk retention and purchasing groups.
- Licenses, §§23-94-211, 23-94-213.

Casualty insurance.

- See CASUALTY INSURANCE.

Certificates of authority.

- Property and casualty insurance guaranty.
- Suspension or revocation, §23-90-113.

Claims.

- Property and casualty insurance guaranty.
- Applicability of chapter, §23-90-111.
- Estimation of amount needed to pay claims, §23-90-112.
- Notification of insureds, §23-90-111.
- Payment, §23-90-115.
- Covered claims, §23-90-115.
- Estimation of amount needed to pay claims, §23-90-112.
- Right of recovery, §23-90-117.

Commissioner.

- Continuing care providers, §§23-93-101 to 23-93-114.
- See CONTINUING CARE PROVIDERS.
- Insurance fraud investigation division, §§23-100-101 to 23-100-107. See within this heading, "Fraud."
- Life and health insurance guaranty association.
- Duties.
- Generally, §23-96-118.
- Examination of association, §23-96-109.
- Insolvencies or impairments.
- Detection and prevention, §23-96-117.
- Powers.
- Generally, §23-96-118.
- Regulation by commissioner, §23-96-109.
- Supervision of association, §23-96-109.
- Long-term care insurance.
- Defined, §23-97-203.
- Minimum basic benefit policies.
- Approval of forms and rates, §23-98-110.
- Defined, §23-98-102.
- Rules and regulations.
- Notice and hearing before adoption, §23-98-103.
- Risk retention and purchasing groups.
- Administrative and procedural authority regarding, §23-94-212.

INSURANCE —Cont'd**Commissioner —Cont'd**

Risk retention and purchasing groups
—Cont'd

Defined, §23-94-203.

Rules and regulations, §23-94-215.

Risk-sharing plans for property and
casualty insurance, §§23-95-101 to
23-95-108.

Construction, §23-95-102.

Governing board, §23-95-103.

Information of individuals,
§23-95-106.

Liability, §23-95-107.

Plan for coverage.

Contents, §23-95-105.

Required, §23-95-104.

Purpose, §23-95-101.

Rules and regulations, §23-95-108.

Rural risk underwriting association.
Certification of aggregate net direct
property insurance premiums
written on property by
members, §23-88-308.

Definition of commissioner,
§23-88-302.

Plan.

Submission to commissioner,
§23-88-305.

Rules and regulations, §23-88-308.

Conflicts of interest.

Property and casualty insurance
guaranty.

Advisory association.

Members may enter into
contracts, §23-90-110.

Construction and interpretation.

Risk-sharing plans for property and
casualty insurance.

Effect upon prior laws, §23-95-102.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

Claims, §23-101-110.

Definitions, §23-101-103.

Disclosures, §23-101-113.

Evidence of coverage, §23-101-107.

Forms, §23-101-108.

Premiums, §23-101-106.

Refunds, §23-101-109.

Remittance, §23-101-112.

Prohibited coverage, §23-101-104.

Purpose, §23-101-101.

Rates, §23-101-108.

Regulations, §23-101-114.

Rights and obligations of parties,
§23-101-111.

Scope, §23-101-102.

Term, §23-101-105.

INSURANCE —Cont'd**Damages.**

Health insurance.

Primary eye care providers.

Remedies for violations,
§23-99-305.

Debts.

Creditor-placed insurance,
§§23-101-101 to 23-101-114. See
within this heading,
“Creditor-placed insurance.”

Definitions.

Amusement ride and amusement
attraction safety insurance,
§23-89-502.

Anti-arson applications, §23-88-202.

Casualty insurance.

Cancellation of policies, §23-89-301.

Uninsured motor vehicles,
§23-89-401.

Legal insurance, §23-91-203.

Life and health insurance guaranty
association, §23-96-104.

Long-term care insurance, §23-97-203.

Minimum basic benefit policies,
§23-98-102.

Multiple employer trust and
self-insured plans, §23-92-201.

Property and casualty insurance
guaranty, §23-90-103.

Risk retention and purchasing groups,
§23-94-203.

Rural risk underwriting association,
§23-88-302.

Uninsured motor vehicles, §23-89-401.

Dental point of service option.

Health insurance carriers, §§23-99-601
to 23-99-608.

See DENTAL POINT OF SERVICE
OPTION.

Disability insurance.

Health insurance.

Generally.

See HEALTH INSURANCE.

Earthquake insurance.

Arkansas earthquake authority act,
§§23-102-101 to 23-102-119.

See EARTHQUAKE AUTHORITY.

Examinations.

Risk retention and purchasing groups.

Foreign risk retention groups,
§23-94-205.

Eye care providers.

Health insurance.

Primary eye care providers,
§§23-99-301 to 23-99-305.

See HEALTH INSURANCE.

INSURANCE —Cont'd**Fees.**

Insurance fraud investigation division trust fund, §§23-100-104, 23-100-105.

Fire insurance.

Policies.

Valued policy law, §23-88-101.

Fire protection districts.

See FIRE PROTECTION DISTRICTS.

Fraud.

Insurance fraud investigation division trust fund act, §§23-100-101 to 23-100-107.

Antifraud assessment, §23-100-104.

Creation, §23-100-103.

Fees, §23-100-105.

Insurers' payment extensions, §23-100-102.

Rules and regulations, §23-100-106.

Title, §23-100-101.

Vouchers, §23-100-107.

Warrants, §23-100-107.

Fraudulent insurance acts.

Insurance fraud investigation division. Trust fund, §§23-100-101 to 23-100-107.

Funds.

Insurance fraud investigation division trust fund, §§23-100-101 to 23-100-107.

Guaranty.

Property and casualty insurance guaranty, §§23-90-101 to 23-90-123.

See PROPERTY INSURANCE.

Guaranty association.

Life and health insurance guaranty association, §§23-96-101 to 23-96-121.

See LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION.

Health care benefit providers.

See HEALTH INSURANCE.

Health insurance.

General provisions.

See HEALTH INSURANCE.

Hearings.

Risk-sharing plans for property and casualty insurance.

Availability of any amount or kind of insurance, §23-95-104.

Immunity.

Life and health insurance guaranty association, §23-96-108.

INSURANCE —Cont'd**Immunity —Cont'd**

Risk-sharing plans for property and casualty insurance.

Commissioner, representatives or any plan, its participants or employees, §23-95-107.

Income withholding.

Minimum basic benefit policies.

Payroll deduction, §23-98-108.

Injunctions.

Health insurance.

Primary eye care providers.

Remedies for violations, §23-99-305.

Risk retention and purchasing groups.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in, §23-94-214.

Insolvency.

Life and health insurance guaranty association.

Insolvent insurers, §23-96-111.

Authority of association, §23-96-113.

Detection and prevention of impairments, §23-96-117.

Distributions of ownership rights, §23-96-119.

Investigations.

Insurance fraud investigation division, §§23-100-101 to 23-100-107.

Legal insurance, §§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

Liabilities.

Casualty insurance.

Tort liability.

Retention, §23-89-206.

Property and casualty insurance guaranty.

Insurers, §23-90-120.

Risk retention and purchasing groups, §§23-94-201 to 23-94-215.

See RISK RETENTION AND PURCHASING GROUPS.

Risk-sharing plans for property and casualty insurance.

Immunity.

Commissioner, representative or plan or its participants, §23-95-107.

Rural risk underwriting association.

Liability of participants in plan, §23-88-307.

INSURANCE —Cont'd**Licenses.****Agents.**

Risk retention and purchasing groups, §§23-94-211, 23-94-213.

Title insurance, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

Brokers.

Risk retention and purchasing groups, §§23-94-211, 23-94-213.

Risk retention and purchasing groups.

Agents or brokers, §§23-94-211, 23-94-213.

Title insurance.

Agents, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

Life and health insurance guaranty association, §§23-96-101 to 23-96-121.

See LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION.

Long-term care insurance, §§23-97-201 to 23-97-213.

See LONG-TERM CARE INSURANCE.

Long-term care provider professional liability insurance, §§23-91-301 to 23-91-309.

See LONG-TERM CARE PROVIDER PROFESSIONAL LIABILITY INSURANCE.

Mental health.**Health insurance policies.**

Required coverage, §§23-99-501 to 23-99-511.

Minimum basic benefit policies.

Applicability of provisions, §23-98-105.

Benefits, §23-98-106.

Commissioner.

Approval of forms and rates, §23-98-110.

Defined, §23-98-102.

Rules and regulations.

Notice and hearing before adoption, §23-98-103.

Cost control.

Managed care and cost control provisions, §23-98-109.

Coverage, §23-98-106.

Disclosure requirements, §23-98-107.

Definitions, §23-98-102.

Disclosure requirements, §23-98-107.

Findings of legislature, §23-98-101.

Forms.

Approval, §23-98-110.

INSURANCE —Cont'd**Minimum basic benefit policies****—Cont'd**

Issuance authorized, §23-98-105.

Disclosure requirements, §23-98-107.

Legislative findings, §23-98-101.

Managed care and cost control provisions, §23-98-109.

Newborn infants.

Coverage, §23-98-106.

Notice, §23-98-108.

Payroll deductions, §23-98-108.

Premiums.

Approval of rates, §23-98-110.

Records.

Requirements for insurers, §23-98-111.

Reports.

Requirements for insurers, §23-98-111.

Rules and regulations.

Notices and hearing before adoption, §23-98-103.

Trusts.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

Minors.**Policies.**

Coverage of newborn infants included in all policies covering insured's family.

Minimum basic benefit policies, §23-98-106.

Misdemeanors.

Amusement ride and amusement attraction safety insurance.

Operation without safety inspection and insurance, §23-89-504.

Motor vehicles.

Bodily injury minimum coverage limits, §23-89-403.

Casualty insurance.**Generally.**

See CASUALTY INSURANCE.

Extraterritorial provisions.

Liability insurance coverage, §23-89-212.

General provisions.

See MOTOR VEHICLE INSURANCE.

Premiums.

Delinquencies, §23-89-213.

Stepdowns.

Prohibited, §23-89-214.

Total loss settlements, §23-89-211.

Underinsured motorists, §23-89-209.

INSURANCE —Cont'd**Motor vehicles —Cont'd**

Uninsured motorists.

Casualty insurance.

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.Subrogation of insurer making
payment, §23-89-405.

Safety responsibility generally.

See MOTOR VEHICLE

INSURANCE.

**Multiple employer trust and
self-insured plans.**

Bonds, surety.

Amount, §23-92-204.

Cancellation, §23-92-204.

Required, §23-92-204.

Definitions, §23-92-201.

Records.

Access, §23-92-207.

Confidential information,
§23-92-207.

Maintenance, §23-92-207.

Registration.

Bonds, surety, §23-92-204.

Certificate of registration.

Application, §23-92-203.

Issuance, §23-92-203.

Renewal, §23-92-203.

Required, §23-92-203.

Suspension or revocation,
§23-92-203.

Required, §23-92-101.

Time for registration, §23-92-101.

Third party administrator.

Collections by, §23-92-206.

Compensation, §23-92-208.

Defined, §23-92-201.

Deposits and withdrawals,
§23-92-206.

Fiduciary capacity, §23-92-206.

Payment of claims and return of
premiums.

Presumptions, §23-92-205.

Payments of premiums to.

Presumptions, §23-92-205.

Updating of lists of trusts and plans,
§23-92-203.Written agreement required,
§23-92-202.**INSURANCE —Cont'd****Newborn infants.**

Policies.

Coverage included in all policies
covering insured's family.Minimum basic benefit policies,
§23-98-106.**No-fault insurance.**

First party coverage.

Required coverage, §23-89-202.

Notice.

Casualty insurance.

Nonrenewal of policies, §§23-89-305,
23-89-306.Minimum basic benefit policies,
§23-98-108.Property and casualty insurance
guaranty.

Claims.

Insureds to be notified,
§23-90-111.

Risk retention and purchasing groups.

Foreign risk retention groups.

Notice to purchasers, §23-94-205.

Purchasing groups.

Requirements, §23-94-208.

Penalties.Amusement ride and amusement
attraction safety insurance.Operation without safety inspection
and insurance, §23-89-504.

Health insurance.

Health care providers.

Civil penalties for violations,
§23-99-207.

Risk retention and purchasing groups.

Foreign risk retention groups,
§23-94-205.**Policies.**

Accident and sickness insurance.

Health insurance generally.

See HEALTH INSURANCE.

Casualty insurance.

Cancellation, §§23-89-301, 23-89-303
to 23-89-308.

Grounds, §23-89-303.

No liability or cause of action
against persons for
information or statements
relating to cancellation,
§23-89-308.Proof of mailing of notices,
§23-89-306.

Definitions, §23-89-301.

First party coverage.

Required coverage, §23-89-202.

Grounds for cancellation of policy,
§23-89-303.

INSURANCE —Cont'd**Policies —Cont'd**

Casualty insurance —Cont'd

Nonrenewal.

No liability or cause of action
against persons for
information or statements
relating to cancellation or
nonrenewal of policies,
§23-89-308.

Notice, §23-89-305.

Proof of mailing of notices,
§23-89-306.

Statement of grounds for
nonrenewal, §23-89-305.

Passengers.

Coverage for passengers and
others not occupying another
vehicle, §23-89-204.

Rejection of coverage, §23-89-203.

Disability insurance.

Health insurance generally.

See HEALTH INSURANCE.

Fire insurance.

Valued policy law, §23-88-101.

Health insurance.

Generally.

See HEALTH INSURANCE.

Group and blanket health insurance.

See HEALTH INSURANCE.

Life and health insurance guaranty
association.

Coverage, §23-96-107.

Termination.

Nonpayment of premiums,
§23-96-120.

Reissuance of terminated
coverage, §23-96-121.

Notice to policyholder.

Disclaimer, §23-96-105.

Summary document describing
general purpose and current
limitations of chapter,
§23-96-105.

Reissuance.

Terminated coverage, §23-96-121.

Long-term care insurance.

Coverage.

General provisions, §23-97-208.

Preexisting conditions, §23-97-209.

Prior hospitalization or
institutionalization.

Conditions of coverage,
§23-97-210.

Defined, §23-97-203.

Free look, §23-97-213.

Preexisting conditions coverage,
§23-97-209.

INSURANCE —Cont'd**Policies —Cont'd**

Long-term care insurance —Cont'd

Prior hospitalization or
institutionalization.

Conditions of coverage,
§23-97-210.

Right to return, §23-97-213.

Minors.

Coverage of newborn infants
included in all policies covering
insured's family.

Minimum basic benefit policies,
§23-98-106.

Newborn infants.

Coverage included in all policies
covering insured's family.

Minimum basic benefit policies,
§23-98-106.

Property and casualty insurance
guaranty.

Issuance.

New or renewal policies,
§23-90-118.

Property insurance.

Valued policy law, §23-88-101.

Rural risk underwriting association.

Appeals, §23-88-309.

Premiums.

Life and health insurance guaranty
association.

Insolvent insurers.

Premiums due after an order of
liquidation, §23-96-120.

Nonpayment of premiums.

Effect, §23-96-120.

Reissuance of terminated coverage,
§23-96-121.

Minimum basic benefit policies.

Approval of rates, §23-98-110.

Motor vehicle insurance.

Delinquencies, §23-89-213.

Rural risk underwriting association.

Net direct written premiums.

Certification of aggregate by
commissioners, §23-88-308.

Defined, §23-88-302.

Taxes.

Fire protection districts.

See FIRE PROTECTION
DISTRICTS.

Premium taxes.

Fire protection districts.

See FIRE PROTECTION
DISTRICTS.

Life and health insurance guaranty
association.

Member insurers.

Credits, §23-96-115.

INSURANCE —Cont'd

Prepaid legal insurance, §§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

Privilege taxes.

Risk retention groups, §23-94-210.

Professional employer

organizations, §§23-92-401 to 23-92-419.

See PROFESSIONAL EMPLOYER ORGANIZATIONS.

Purchasing groups.

Risk retention and purchasing groups, §§23-94-201 to 23-94-215.

See RISK RETENTION AND PURCHASING GROUPS.

Railroads.

Casualty insurance.

Railroad accidents not to be considered in automobile insurance, §23-89-302.

Records.

Life and health insurance guaranty association.

Open records, §23-96-109.

Minimum basic benefit policies.

Requirements for insurers, §23-98-111.

Reports.

Legal insurance.

Annual report, §23-91-215.

Exempt persons, §23-91-206.

Public documents, §23-91-227.

Life and health insurance guaranty association.

Board of directors.

Annual report, §23-96-109.

Minimum basic benefit policies.

Requirements for insurers, §23-98-111.

Property and casualty insurance guaranty.

Advisory association, §23-90-109.

Residential earthquake insurance.

Arkansas earthquake authority act, §§23-102-101 to 23-102-119.

See EARTHQUAKE AUTHORITY.

Rules and regulations.

Creditor-placed insurance, §23-101-114.

Insurance fraud investigation division trust fund, §23-100-106.

Long-term care insurance.

Administrative procedure, §23-97-206.

Standards for long-term care insurance.

Disclosure and performance standards, §23-97-208.

INSURANCE —Cont'd**Rules and regulations —Cont'd**

Minimum basic benefit policies.

Notices and hearing before adoption, §23-98-103.

Property and casualty insurance guaranty.

Promulgation of rules by commissioner, §23-90-122.

Risk retention and purchasing groups.

Commissioner, §23-94-215.

Risk-sharing plans for property and casualty insurance.

Commissioner to promulgate, §23-95-108.

Rural risk underwriting association.

Commissioner's rules and regulations, §23-88-308.

Rural risk underwriting association.

Association.

Defined, §23-88-302.

Commissioner.

Defined, §23-88-302.

Plan.

Submission to commissioner, §23-88-305.

Rules and regulations, §23-88-308.

Companies.

Insurer, §23-88-302.

Declaration of legislature, §23-88-301.

Definitions, §23-88-302.

Governing board, §23-88-304.

Appointment of members, §23-88-304.

Assessments.

Authorization to make, §23-88-306.

Composition, §23-88-304.

Number of members, §23-88-304.

Plan.

Duties as to plan, §23-88-305.

Terms of members, §23-88-304.

Legislative intent, §23-88-301.

Liability of plan participants, §23-88-307.

Membership, §23-88-303.

Person.

Defined, §23-88-302.

Plan, §23-88-303.

Appeals, §23-88-309.

Contents, §23-88-306.

Establishment of underwriting standards, §23-88-306.

Requirements of plan, §23-88-306.

Submission to commissioner, §23-88-305.

Policies.

Appeals, §23-88-309.

INSURANCE —Cont'd**Rural risk underwriting association**

—Cont'd

Premiums.

Net direct written premiums.

Certification of aggregate by
commissioners, §23-88-308.

Defined, §23-88-302.

Rules and regulations.Commissioner to have authority to
promulgate, §23-88-308.**Standards for underwriting.**

Plan to establish, §23-88-306.

Service of process.

Risk retention and purchasing groups.

Foreign risk retention groups.

Designation of commissioner as
agent, §23-94-205.

Purchasing groups.

Designation of commissioner as
agent, §23-94-208.**Sickness insurance.**

Health insurance.

Generally.

See HEALTH INSURANCE.

Subrogation.

Casualty insurance.

Injured person subrogated to right
of insured, §23-89-101.Insurer making payment,
§23-89-405.Life and health insurance guaranty
association.

Subrogation rights, §23-96-114.

Underinsured motorists, §23-89-209.

Taxation.

Fire protection districts.

Insurance premium taxes.

See FIRE PROTECTION
DISTRICTS.

Legal insurance.

Premiums, §23-91-226.

Life and health insurance guaranty
association.

Exemption, §23-96-109.

Premium taxes.

Fire protection districts.

See FIRE PROTECTION
DISTRICTS.Property and casualty insurance
guaranty.Assessment as credit against taxes,
§23-90-119.

Risk retention groups, §23-94-210.

Title insurance.

Agents.

Licensing, §§23-103-101 to
23-103-316.

See TITLE INSURANCE.

INSURANCE —Cont'd**Torts.**

Casualty insurance.

Retention of tort liability,
§23-89-206.**Trusts and trustees.**Insurance fraud investigation division,
§§23-100-101 to 23-100-107.

Minimum basic benefit policies.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

Underinsured motorists, §23-89-209.Set-offs or reduction of recovery,
§23-89-403.**Uninsured motorists.**

Casualty insurance.

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.Subrogation of insurer making
payment, §23-89-405.

Safety responsibility generally.

See MOTOR VEHICLE
INSURANCE.**Valued policy law.**Property insurance, total loss by fire
or natural disaster, §23-88-101.**INSURANCE COMPANIES.****Rural risk underwriting association.**

Insurer, §23-88-302.

INVESTIGATIONS.**Continuing care providers.**

Grounds for investigation, §23-93-114.

Powers of commissioner, §23-93-114.

Greyhound racing.Officers, directors and shareholders of
franchise holders, §§23-111-405,
23-111-409.**Horse racing.**

Racing commission, §23-110-413.

Insurance.Insurance fraud investigation division,
§§23-100-101 to 23-100-107.

See INSURANCE.

INVESTMENTS.**Legal insurance.**

Assets, §23-91-217.

J**JOCKEYS.**

See HORSE RACING.

L**LABOR.**

Professional employer organizations, §§23-92-401 to 23-92-419.

See PROFESSIONAL EMPLOYER ORGANIZATIONS.

LAWYERS.

Attorneys generally.

See ATTORNEYS AT LAW.

LEASES.

Motor vehicles.

Lessors.

Unlawful practices, §23-112-404.

LEGAL INSURANCE, §§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

LETTERS OF CREDIT.

Professional employer organizations.

Letter of credit in lieu of bond, §23-92-408.

LICENSES.

Continuing care providers.

General provisions, §§23-93-201 to 23-93-207.

See CONTINUING CARE PROVIDERS.

Greyhound racing.

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

Legal insurance.

Agents, §23-91-219.

Professional employer organizations.

Employer service assurance organizations, §23-92-415.

Fees, §23-92-407.

Issuance, §23-92-410.

Requirement, §23-92-404.

Revocation or suspension, §23-92-410.

Transfer or assignment, §23-92-406.

Title insurance.

Agents, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

LIENS.

Continuing care providers.

Bankruptcy or receivership of provider resulting from financial difficulties.

Resident's statutory lien on real and personal property, §23-93-113.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION,

§§23-96-101 to 23-96-121.

Accounts and accounting.

Accident and health insurance account.

Maintenance by association, §23-96-109.

Life insurance and annuity account.

Maintenance by association, §23-96-109.

Advertisement of act in insurance sales.

Prohibited, §23-96-105.

Applicability of chapter, §23-96-103.**Assessments.**

Member insurers, §23-96-115.

Assignment of rights, §23-96-114.**Benefits,** §23-96-114.**Board of directors,** §23-96-109.

Assessment of member insurers, §23-96-115.

Impairments or insolvencies.

Detection and prevention.

Procedure, §23-96-117.

Citation of chapter, §23-96-101.**Commissioner.**

Insolvencies or impairments.

Detection and prevention, §23-96-117.

Powers and duties, §23-96-118.

Supervision and regulation, §23-96-109.

Companies.

Board of directors, §23-96-109.

Assessment of member insurers, §23-96-115.

Impairments or insolvencies, detection and prevention.

Procedure, §23-96-117.

Impaired insurers, §23-96-111.

Authority of association, §23-96-113.

Detection and prevention of impairments, §23-96-117.

Distributions of ownership rights, §23-96-119.

Insolvent insurers, §23-96-112.

Authority of association, §23-96-113.

Detection and prevention of insolvencies, §23-96-117.

Distributions of ownership rights, §23-96-119.

Premiums due after an order of liquidation, §23-96-120.

Member insurers, §23-96-109.

Plan of operation.

Compliance, §23-96-116.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

—Cont'd

- Construction and interpretation.**
 - Applicability of chapter, §23-96-103.
 - Purpose of chapter, §23-96-102.
 - Scope of chapter, §23-96-106.
- Created,** §23-96-109.
- Definitions,** §23-96-104.
- Delegation of authority.**
 - Plan of operation, §23-96-116.
- Disclaimer.**
 - Notice to policyholder, §23-96-105.
- Duties.**
 - Generally, §23-96-110.
- Examination by commissioner,** §23-96-109.
- Functions.**
 - Generally, §23-96-109.
- General provisions,** §§23-96-101 to 23-96-121.
- Immunity from liability,** §23-96-108.
- Impaired insurers,** §23-96-111.
 - Authority of association, §23-96-113.
 - Detection and prevention of impairments, §23-96-117.
 - Distributions of ownership rights, §23-96-119.
- Insolvent insurers,** §23-96-112.
 - Authority of association, §23-96-113.
 - Detection and prevention of insolvencies, §23-96-117.
 - Distributions of ownership rights, §23-96-119.
 - Premiums due after an order of liquidation, §23-96-120.
- Legislative declaration.**
 - Purpose of chapter, §23-96-102.
- Liability.**
 - Benefits, §23-96-114.
 - Immunity from liability, §23-96-108.
 - Nonpayment of premiums.
 - Termination of association's obligations, §23-96-120.
 - Reissuance of terminated coverage, §23-96-121.
- Meetings.**
 - Open meetings, §23-96-109.
- Member insurers,** §23-96-109.
 - Assessments, §23-96-115.
 - Plan of operation.
 - Compliance, §23-96-116.
 - Tax credits, §23-96-115.
- Notice to policyholder,** §23-96-105.
- Plan of operation,** §23-96-116.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

—Cont'd

- Policies.**
 - Coverage, §23-96-107.
 - Termination.
 - Nonpayment of premiums, §23-96-120.
 - Reissuance of terminated coverage, §23-96-121.
 - Notice to policyholder.
 - Disclaimer, §23-96-105.
 - Summary document describing general purpose and current limitations of chapter, §23-96-105.
 - Reissuance.
 - Terminated coverage, §23-96-121.
- Powers.**
 - Exercisable through board of directors, §23-96-109.
 - Generally, §23-96-110.
- Premiums.**
 - Insolvent insurers.
 - Premiums due after an order of liquidation, §23-96-120.
 - Nonpayment of premiums.
 - Effect, §23-96-120.
 - Reissuance of terminated coverage, §23-96-121.
- Premium taxes.**
 - Member insurers.
 - Credits, §23-96-115.
- Purpose of chapter,** §23-96-102.
- Records.**
 - Open records, §23-96-109.
- Reports.**
 - Board of directors.
 - Annual report, §23-96-109.
- Scope of chapter,** §23-96-106.
- Subrogation rights,** §23-96-114.
- Tax credits.**
 - Member insurers, §23-96-115.
- Tax exemption,** §23-96-109.
- Title of chapter,** §23-96-101.
- LIQUIDATION.**
- Legal insurance.**
 - Companies, §23-91-223.
- LONG-TERM CARE FACILITIES
AND ADMINISTRATORS.**
- Continuing care providers,** §§23-93-101 to 23-93-207.
 - See CONTINUING CARE PROVIDERS.
- Long-term care insurance.**
 - General provisions, §§23-97-201 to 23-97-213.
 - See LONG-TERM CARE INSURANCE.

**LONG-TERM CARE FACILITIES
AND ADMINISTRATORS —Cont'd**

**Long-term care provider
professional liability insurance,**
§§23-91-301 to 23-91-309.
See LONG-TERM CARE PROVIDER
PROFESSIONAL LIABILITY
INSURANCE.

LONG-TERM CARE INSURANCE,
§§23-97-201 to 23-97-213.

Advertising or marketing.

Compliance with subchapter.
Required, §23-97-205.

Applicability of subchapter,
§23-97-204.

Certificate of insurance.

Definition of "certificate," §23-97-203.
Free look, §23-97-213.
Group long-term care insurance.
Contents of certificate, §23-97-212.
Preexisting conditions.
Coverage, §23-97-209.
Prior hospitalization or
institutionalization.
Conditions of coverage, §23-97-210.
Right to return, §23-97-213.

Citation of subchapter.

Short title, §23-97-201.

Commission.

Defined, §23-97-203.

Compliance with subchapter.

Required, §23-97-205.

Coverage.

General provisions, §23-97-208.
Outline of coverage, §23-97-211.
Preexisting conditions, §23-97-209.
Prior hospitalization or
institutionalization.
Conditions of coverage, §23-97-210.

Definitions, §23-97-203.**Disclosure standards, §23-97-208.****Group long-term care insurance.**

Certificate of insurance.
Contents, §23-97-212.
Defined, §23-97-203.
Offering to resident in state under
group policy issued in another
state, §23-97-207.

Legislative declaration.

Purpose of subchapter, §23-97-202.

Performance standards, §23-97-208.**Policies.**

Coverage.
General provisions, §23-97-208.
Preexisting conditions, §23-97-209.
Prior hospitalization or
institutionalization.
Conditions of coverage,
§23-97-210.

**LONG-TERM CARE INSURANCE
—Cont'd****Policies —Cont'd**

Defined, §23-97-203.
Free look, §23-97-213.
Preexisting conditions coverage,
§23-97-209.
Prior hospitalization or
institutionalization.
Conditions of coverage, §23-97-210.
Right to return, §23-97-213.

Preexisting conditions.

Coverage, §23-97-209.

**Prior hospitalization or
institutionalization.**

Conditions of coverage, §23-97-210.

Purpose of subchapter, §23-97-202.**Rules and regulations.**

Administrative procedure, §23-97-206.
Standards for long-term care
insurance.
Disclosure and performance
standards, §23-97-208.

Scope of subchapter, §23-97-204.**Standards.**

Disclosure and performance,
§23-97-208.

Title of subchapter.

Short title, §23-97-201.

**LONG-TERM CARE PROVIDER
PROFESSIONAL LIABILITY
INSURANCE, §§23-91-301 to
23-91-309.****Availability.**

Purpose of provisions, §23-91-301.

Coverages to be provided, §23-91-304.**Funding of plan, §23-91-305.****Governing board, §23-91-302.****Plan for insurance.**

Contents, §23-91-303.
Coverages to be provided, §23-91-304.
Funding, §23-91-305.
Immunity from liability, §23-91-307.
Information provided to individuals,
§23-91-306.
Purpose of provisions, §23-91-301.
Termination, §23-91-309.

**Rulemaking to implement
provisions, §23-91-308.****Termination of plan, §23-91-309.****M****MANAGED CARE PLANS.****Grievance systems and quality
assessment and improvement
systems, §§23-99-701 to 23-99-706.**

Benefits offered, inapplicability of
director's regulatory authority,
§23-99-705.

MANAGED CARE PLANS —Cont'd

- Grievance systems and quality assessment and improvement systems —Cont'd**
 - Definitions, §23-99-702.
 - Grievance system, §23-99-703.
 - Insurance exempted from provisions, §23-99-705.
 - Legislative findings, §23-99-701.
 - Power to implement and enforce provisions, §23-99-706.
 - Quality assessment and improvement systems, §23-99-704.

MANDAMUS.

- Continuing care providers.**
 - Enforcement of chapter, §23-93-104.

MASTECTOMIES.

- Health insurance.**
 - Required coverage, §23-99-405.

MATERNITY.

- Health insurance.**
 - Obstetrical and gynecological services.
 - Required coverage, §23-99-406.
 - Required coverage, §23-99-404.

MENTAL HEALTH.

- Health insurance.**
 - Applicability, §23-99-509.
 - Definitions, §23-99-503.
 - Enforcement, §23-99-511.
 - Exclusions, §23-99-504.
 - Exemptions.
 - Increased costs, §23-99-505.
 - Intent of state, §23-99-502.
 - Medical necessity, §23-99-507.
 - Parity requirements, §23-99-506.
 - Provisions permitted, §23-99-508.
 - Required coverage, §§23-99-501 to 23-99-511.
 - Rules and regulations, §23-99-510.
 - Short title, §23-99-501.

MENTAL HEALTH PARITY ACT.

- Health insurance required coverage,** §§23-99-501 to 23-99-511.

MINORS.

- Greyhound racing.**
 - Employment by franchise holders.
 - Prohibited, §23-111-308.
 - Patrons at race tracks.
 - Prohibited, §23-111-308.
 - Wagering.
 - Prohibited, §23-111-508.
- Horse racing.**
 - Wagering.
 - Prohibited for persons under 18, §23-110-405.

MINORS —Cont'd**Insurance.**

- Coverage of newborn infants included in all policies covering insured's family.
 - Minimum basic benefit policies, §23-98-106.
- Policies.
 - Coverage of newborn infants included in all policies covering insured's family.
 - Minimum basic benefit policies, §23-98-106.

MISDEMEANORS.

- Amusement rides and attractions,** §23-89-504.
 - Safety of patrons, §23-89-514.

Dog racing.

- Failure to appear or testify at hearings, §23-111-205.
- Failure to comply with franchise, §23-111-501.
- False affidavits of officers and directors, §23-111-406.
- Issuance of sales tax-free passes, §23-111-510.

Horse racing.

- Compliance with license, §23-110-401.
- Failure to appear or testify at hearings, §23-110-205.
- Failure to pay tax, §23-110-415.
- False application for employment, §23-110-308.
- Issuance of sales tax-free passes, §23-110-411.

Motor vehicle manufacturers, dealers, etc.

- Failure to obtain a license, §23-112-301.

Title insurance.

- Agent licenses.
 - Criminal enforcement of provisions, §23-103-103.

MOON WALKS.

- Insurance for amusements,** §§23-89-501 to 23-89-518.
 - See AMUSEMENTS.

MOTOR VEHICLE INSURANCE.**Bodily injury minimum coverage limits,** §23-89-403.**Casualty insurance.**

- Generally.
 - See CASUALTY INSURANCE.

Driver other than insured in accident.

- Converting limits downward.
 - Prohibition on stepdowns, §23-89-214.

MOTOR VEHICLE INSURANCE

—Cont'd

Extraterritorial provisions.

Liability insurance coverage,
§23-89-212.

Premiums.

Delinquencies, §23-89-213.

Safety responsibility.

College graduates.
Premium reduction for, §23-89-210.

Stepdowns.

Prohibited, §23-89-214.

Total loss settlements, §23-89-211.**Underinsured motorists, §23-89-209.**

Setoffs or reduction of recovery,
§23-89-403.

Uninsured motorists.

Casualty insurance.
Bodily injury coverage, §23-89-403.
Definition of uninsured motorist,
§23-89-401.
Insurers' insolvency protection.
Applicability, §23-89-402.
Property damage coverage,
§23-89-404.
Subrogation of insurer making
payment, §23-89-405.

MOTOR VEHICLES.**Advertising.**

Used motor vehicle dealers.
Requirements for printed
advertisements, §23-112-610.

Appeals.

Licenses.
Dealers, distributors, manufacturers
and salespersons.
Denial, revocation or suspension
of license, §23-112-506.

Bonds, surety.

Dealers, distributors, manufacturers
and salespersons.
Licenses, §23-112-302.
Used motor vehicle buyers
protection, §23-112-607.

Brokers.

Acting as broker.
Unlawful, §23-112-406.

**Buyer referral services, plans, clubs,
etc., §23-112-406.****Casualty insurance generally.**

See CASUALTY INSURANCE.

Damages.

Licenses.
Dealers, distributors, manufacturers
and salespersons.
Pecuniary loss from failure to
comply with provisions,
§23-112-105.

MOTOR VEHICLES —Cont'd**Dealers.**

Damage to motor vehicles while in
transit.
Delivery to dealer.
Damage after.
Disclosure to consumer,
§23-112-706.
Damage prior to.
Computing time, §23-112-704.
Disclosure to consumer,
§23-112-705.
Failure to repair, §23-112-703.
Notice, §23-112-702.
When accomplished, §23-112-701.
Indemnification of franchised
dealers.
Manufacturer required to
indemnify, §23-112-707.
Defined, §23-112-103.
Unlawful practices, §23-112-402.
Used motor vehicle buyers protection.
General provisions, §§23-112-601 to
23-112-612. See within this
heading, "Used motor vehicle
buyers protection."

Definitions.

Motor vehicle commission,
§23-112-103.
Uninsured motor vehicles, §23-89-401.
Used motor vehicle buyers protection,
§23-112-602.

Distributors.

Defined, §23-112-103.
Unlawful practices, §23-112-403.

Fees.

Licenses.
Dealers, distributors, manufacturers
and salespersons.
Application, §23-112-303.
Used motor vehicle buyers protection.
Documentary fees, §23-112-612.
License certificate fees, §23-112-608.

Hearings.

Motor vehicle commission.
Licenses.
Dealers, distributors,
manufacturers and
salespersons.
Denial, revocation or suspension
of license, §§23-112-501 to
23-112-509.

Injunctions.

Licenses.
Dealers, distributors, manufacturers
and salespersons.
Violations of provisions,
§23-112-104.

MOTOR VEHICLES —Cont'd**Insurance generally.**

See MOTOR VEHICLE INSURANCE.

Leases.

Lessors.

Unlawful practices, §23-112-404.

Licenses.**Appeals.**

Dealers, distributors, manufacturers and salespersons.

Denial, revocation or suspension of license, §23-112-506.

Dealers, distributors, manufacturers and salespersons.

Addition of new motor vehicle dealers, §23-112-311.

Appeals.

Denial, revocation or suspension, §23-112-506.

Applications, §23-112-302.

Fees, §23-112-303.

Bonds, surety, §23-112-302.

Brokers.

Acting as broker prohibited, §23-112-406.

Business restructuring, §23-112-304.

Buyer referral services, plans, clubs, etc., §23-112-406.

Change of employer, §23-112-305.

Factory representative and distributor representative, §23-112-305.

Salespersons, §23-112-306.

Change of location, §23-112-304.

Civil penalty for violations, §23-112-313.

Compensation for warranty and recall work, §23-112-313.

Damages.

Pecuniary loss from failure to comply with provisions, §23-112-105.

Definitions, §23-112-103.

Delivery, preparation and warranty obligations.

Copy, §23-112-310.

Denial, §23-112-308.

Monetary penalty in lieu of suspension or revocation, §23-112-309.

Display of license, §23-112-305.

Change of employer.

Factory representative and distributor representative, §23-112-305.

Salespersons, §23-112-306.

MOTOR VEHICLES —Cont'd**Licenses —Cont'd**

Dealers, distributors, manufacturers and salespersons —Cont'd

Documentary fees, §23-112-315.

Engaging in business without license, §23-112-301.

Exhaustion of remedies required, §23-112-507.

Expiration, §23-112-307.

Factory representative and distributor representative, §23-112-305.

Fees, §23-112-301.

Application, §23-112-303.

Documentary fees, §23-112-315.

Fines to enforce provisions, §23-112-314.

Franchise agreements.

Violations, §23-112-403.

Hearings.

Appeals, §23-112-506.

Call for hearing, §23-112-502.

Conduct, §23-112-504.

Decisions, §23-112-505.

Exhaustion of remedies required, §23-112-507.

Location, §23-112-503.

Notice, §23-112-503.

Orders of commission, §23-112-505.

Right to hearing, §23-112-501.

Rules of order or procedure, §23-112-508.

Summons, citation and subpoena, §23-112-509.

Indemnity bond, §23-112-302.

Injunctions.

Violations of provisions, §23-112-104.

Issuance, §23-112-304.

Labor and parts, warranty and recall work, §23-112-313.

Legislative declaration, §23-112-102.

Manufacturer's product or warranty liability, §23-112-310.

Misdemeanors.

Dealers and salespersons, §23-112-402.

Violation of license requirements, §23-112-301.

Name changes, §23-112-304.

New motor vehicles.

Defined, §23-112-103.

MOTOR VEHICLES —Cont'd**Licenses —Cont'd**

- Dealers, distributors, manufacturers and salespersons —Cont'd
- New motor vehicles —Cont'd
 - Engaging in the business of buying, selling or exchanging. Defined, §23-112-301.
 - Required, §23-112-301.
- Penalty imposed for violations, §23-112-313.
- Product liability as between dealer and manufacturer, §23-112-310.
- Prohibited acts.
 - Dealers and salespersons, §23-112-402.
 - Manufacturers, distributors, etc., §23-112-403.
- Recall agreements, §23-112-313.
- Reciprocity, §23-112-312.
- Records to be maintained.
 - Applicants for licenses, §23-112-302.
- Relocation of new motor vehicle dealer, §23-112-311.
- Required, §23-112-301.
- Revocation or suspension, §23-112-308.
 - Hearings, §23-112-501.
 - Monetary penalty in lieu of, §23-112-309.
- Term, §23-112-307.
- Termination, cancellation, etc., of franchise, §23-112-403.
- Time allowances for warranty or recall work, §23-112-313.
- Unfair competition by manufacturer with dealer, §23-112-403.
- Unlawful acts, §23-112-301.
- Used motor vehicle buyers protection.
 - General provisions, §§23-112-601 to 23-112-612. See within this heading, "Used motor vehicle buyers protection."
- Violations of provisions.
 - Civil damages, §23-112-105.
 - Injunctions, §23-112-104.
 - Prohibited acts, §§23-112-402, 23-112-403.
- Warranty or recall agreements, §23-112-313.
- Warranty work, payments to dealers for, §23-112-310.

Fees.

- Dealers, distributors, manufacturers and salespersons.
 - Application, §23-112-303.

Penalties, §23-112-314.

MOTOR VEHICLES —Cont'd**Manufacturers.**

- Damage to motor vehicles while in transit.
 - Delivery to dealer.
 - Damage after.
 - Disclosure to consumer, §23-112-706.
 - Damage prior to.
 - Computing time, §23-112-704.
 - Disclosure to consumer, §23-112-705.
 - Failure to repair, §23-112-703.
 - Notice, §23-112-702.
 - When accomplished, §23-112-701.
- Indemnification of franchised dealer.
 - Manufacturer required to indemnify, §23-112-707.
- Defined, §23-112-103.
- Unlawful practices, §23-112-403.

Misdemeanors.

- Licenses.
 - Dealers, distributors, manufacturers and salespersons.
 - Violations of license requirements, §§23-112-301, 23-112-402.
 - Used motor vehicle buyers protection, §23-112-603.

Motor vehicle commission.

- Bonds, surety, §23-112-202.
- Citation of chapter.
 - Short title, §23-112-101.
- Compliance.
 - Orders directing and commanding, requirements, §23-112-106.
- Creation, §23-112-201.
- Definitions, §23-112-103.
- Employee, §23-112-203.
- Enforcement, §23-112-106.
- Executive secretary, §23-112-203.
- Expenses, §23-112-205.
- Funds.
 - Disposition, §23-112-205.
- Legislative declaration, §23-112-102.
- Meetings, §23-112-202.
- Members, §23-112-201.
- Oath of office of members, §23-112-202.
- Office, §23-112-203.
- Policy of state, §23-112-102.
- Quorum, §23-112-202.
- Rules and regulations, §23-112-204.
- Seal, §23-112-202.
- Title of chapter.
 - Short title, §23-112-101.

MOTOR VEHICLES —Cont'd**Notice.**

- Damage to motor vehicles while in transit.
- Damage prior to delivery to dealer, §23-112-702.

Oaths.

- Motor vehicle commission.
- Oath of office of members, §23-112-202.

Passengers.

- Insurance.
- Coverage for passengers and others not occupying another vehicle, §23-89-204.

Penalties.

- Used motor vehicle buyers protection.
- Disbursement of fees, §23-112-603.

Previously owned motor vehicles.

- Generally, §§23-112-601 to 23-112-612.
- See within this heading, "Used motor vehicle buyers protection."

Reciprocity.

- Licenses.
- Dealers, distributors, manufacturers and salespersons, §23-112-312.

Records.

- Used motor vehicle buyers protection.
- Dealer licensees, §23-112-611.

Rental vehicles.

- Prohibited acts by motor vehicle lessors, §23-112-404.

Rules and regulations.

- Motor vehicle commission, §23-112-204.
- Used motor vehicle buyers protection, §23-112-604.

Salespersons.

- Defined, §23-112-103.
- Unlawful practices, §23-112-402.

Sentencing.

- Used motor vehicle buyers protection.
- Repeat offenders, §23-112-603.

Underinsured motorists, §23-89-209.

- Set-offs or reduction of recovery, §23-89-403.

Uninsured motorists.

- Casualty insurance.
- Bodily injury coverage.
- Required, §23-89-403.
- Definition of uninsured motorist, §23-89-401.
- Insurers' insolvency protection.
- Applicability, §23-89-402.
- Property damage coverage, §23-89-404.
- Subrogation of insurer making payment, §23-89-405.

MOTOR VEHICLES —Cont'd**Used motor vehicle buyers**

- protection, §§23-112-601 to 23-112-612.**

Advertising.

- Information required in printed advertisements, §23-112-610.

Dealer's license.**Application.**

- Issuance of license certificate, §23-112-609.
- Surety bond, §23-112-607.
- Verified application, §23-112-607.

Application process, §23-112-607.**Certificate fees, §23-112-608.****Display, §23-112-610.****Fees.**

- Licensed certificate fees, §23-112-608.

Issuance of license certificate, §23-112-609.**Posting, §23-112-610.****Recordkeeping requirements, §23-112-611.****Required, §23-112-606.****Unlicensed businesses, §23-112-606.****Penalty, §23-112-603.****Violations, §23-112-605.****Penalty, §23-112-603.****Definitions, §23-112-602.****Disbursement of fines, §23-112-603.****Documentary fees, §23-112-612.****Felony offenses, §23-112-603.****Legislative findings, §23-112-601.****Misdemeanor offenses, §23-112-603.****Public policy, §23-112-601.****Rulemaking authority, §23-112-604.****Violations.****Enumeration, §23-112-605.****Penalty, §23-112-603.****MULTIPLE EMPLOYER TRUSTS AND SELF INSURERS.**

See INSURANCE.

MUNICIPAL CORPORATIONS.**Greyhound racing.****Racing meets.**

- Use of revenue derived from additional racing days, §23-111-515.

N**NO FAULT INSURANCE.****First party coverage.**

- Required coverage, §23-89-202.

NONRESIDENTS.**Title insurance.**

Agent licenses.

Nonresident licensing, §23-103-306.

NOTICE.**Continuing care providers.**

Disclosure statements.

Deficiencies, §23-93-107.

Licenses.

Disciplinary actions, §23-93-205.

Greyhound racing.

Franchises to conduct races.

Elections, §23-111-304.

Horse racing.

Franchises to conduct horse races.

Elections, §23-110-304.

Racing meets.

Sunday racing.

Notice of election, §23-110-402.

Insurance.

See INSURANCE.

Property insurance.

Fire loss reporting act.

Notice regarding fire protection,
§23-88-404.Notice prior to expiration of policy,
§23-88-105.**Risk retention and purchasing groups.**

Foreign risk retention groups.

Notice to purchasers, §23-94-205.

Purchasing groups.

Requirements, §23-94-208.

Underinsured motorists.

Rejection of coverage, §23-89-209.

NURSING HOMES.**Long-term care insurance.**General provisions, §§23-97-201 to
23-97-213.See LONG-TERM CARE
INSURANCE.**O****OATHS.****Horse racing.**

Racing commission.

Oath of office of members,
§23-110-201.**Motor vehicles.**

Motor vehicle commission.

Oath of office of members,
§23-112-202.**OBSTETRICAL SERVICES.****Health insurance.**

Required coverage, §23-99-406.

ORDERS.**Continuing care providers.**

Cease and desist orders.

Enforcement of chapter, §23-93-104.

Injunctions.

General provisions.

See INJUNCTIONS.

P**PARI-MUTUEL WAGERING.**

Greyhound racing, §23-111-508.

Horse racing, §23-110-405.

PATIENT PROTECTION ACT OF 1995.**Health insurance.**Health care providers, §§23-99-201 to
23-99-209.

See HEALTH INSURANCE.

PENALTIES.**Greyhound racing.**

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

POLICE.**Used motor vehicle buyers protection.**

Disbursement of fines, §23-112-603.

POLICIES OF INSURANCE.**Insurance generally.**

See INSURANCE.

PREGNANCY.**Health insurance.**Required coverage, §§23-99-404,
23-99-406.**PREMIUMS.****Insurance.**

General provisions.

See INSURANCE.

PREPAID LEGAL INSURANCE,

§§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

PRESCRIPTIONS.**Health insurance.**

Formulary for prescription drugs.

Procedure for exceptions,
§23-99-409.**PRIMARY EYE CARE PROVIDER**

ACT, §§23-99-301 to 23-99-305.

See HEALTH INSURANCE.

PRISON TERMS.**Dog racing.**Failure to comply with franchise,
§23-111-501.

PRISON TERMS —Cont'd**Dog racing —Cont'd**

- False affidavits of officers and directors, §23-111-406.
- Improper wagering, §23-111-508.
- Issuance of sales tax-free passes, §23-111-510.

Horse racing.

- Compliance with license, §23-110-401.
- Improper wagering, §23-110-405.
- Issuance of sales tax-free passes, §23-110-411.

PRIVILEGE TAXES.**Insurance.**

- Risk retention groups, §23-94-210.

PRODUCTS LIABILITY.**Risk retention and purchasing**

- groups, §§23-94-201 to 23-94-215.
- See RISK RETENTION AND PURCHASING GROUPS.

PROFESSIONAL EMPLOYER**ORGANIZATIONS, §§23-92-401 to 23-92-419.****Bond required, §23-92-408.**

- Employer service assurance organizations, §23-92-415.

Client's rights and duties, §23-92-409.**Coemployment relationships, §23-92-409.****Confidential information, §23-92-413.****Construction of provisions.**

- Relationship to other laws, §23-92-403.

Controlling persons.

- Changes in control, §23-92-406.
- Duties, §23-92-405.

Deceptive practices, §23-92-411.**Definitions, §23-92-402.****Employer service assurance organizations.**

- Affidavit, §23-92-414.
- Filing, §23-92-418.
- Filing, §23-92-418.
- Licenses, §23-92-415.
- Permissible activities, §23-92-417.
- Prohibited activities, §23-92-416.

Fees, §23-92-407.

- Employer service assurance organization affidavit, §23-92-414.

Letter of credit in lieu of bond, §23-92-408.**Liability limitation, §23-92-409.****Licenses.**

- Employer service assurance organizations, §23-92-415.
- Exemptions, §23-92-404.
- Fees, §23-92-407.

PROFESSIONAL EMPLOYER ORGANIZATIONS —Cont'd**Licenses —Cont'd**

- Information required, §23-92-404.
- Issuance, §23-92-410.
- Renewal, §23-92-404.
- Requirement, §23-92-404.
- Revocation or suspension, §23-92-410.
- Transfer or assignment, §23-92-406.

Net worth requirements, §23-92-408.**Organization's rights and duties, §23-92-409.****Penalties for violations, §23-92-412.****Prohibited practices, §23-92-411.**

- Employer service assurance organizations, §23-92-416.

Rulemaking, §23-92-419.**Title of provisions, §23-92-401.****PROFESSIONS AND OCCUPATIONS.****Continuing care providers, §§23-93-101 to 23-93-207.**

- See CONTINUING CARE PROVIDERS.

PROPERTY INSURANCE.**Fire loss reporting act.**

- Annual statement, §23-88-402.
- Confidential information, §23-88-403.
- Notice regarding fire protection, §23-88-404.
- Rulemaking, §23-88-405.
- Title of provisions, §23-88-401.

Fire protection impact statement, §23-88-104.**Notice prior to expiration of policy, §23-88-105.****Policies.**

- Notice prior to expiration, §23-88-105.
- Valued policy law, §23-88-101.

Property and casualty insurance guaranty.

- Accounts and accounting.
- Assessments, §23-90-114.
- Advertisements.
- Prohibited advertisements or statements, §23-90-121.

Advisory association.**Conflicts of interest.**

- Members may enter into contracts, §23-90-110.

Creation, §23-90-106.**Powers, §23-90-108.****Procedures, §23-90-107.**

- Recommendations and reports, §23-90-109.

Appeals.

- Rulings of commissioner, §23-90-123.

PROPERTY INSURANCE —Cont'd**Property and casualty insurance guaranty —Cont'd**

Applicability of chapter, §23-90-104.
Assessments.

Accounting for and repayment of,
§23-90-114.

Claims, §23-90-112.

Taxation.

Credit against taxes, §23-90-119.

Certificates of authority.

Suspension or revocation,
§23-90-113.

Citation of chapter, §23-90-101.

Claims.

Applicability of chapter, §23-90-111.

Estimation of amount needed to pay
claims, §23-90-112.

Notification of insureds, §23-90-111.

Payment, §23-90-115.

Covered claims, §23-90-115.

Estimation of amount needed to
pay claims, §23-90-112.

Right of recovery, §23-90-117.

Construction and interpretation.

Liberal construction of act,
§23-90-105.

Definitions, §23-90-103.

Exemptions from act, §23-90-104.

Legislative declaration, §23-90-102.

Liabilities.

Insurers, §23-90-120.

Liberal construction of chapter,
§23-90-105.

Notice.

Claims.

Insureds to be notified,
§23-90-111.

Policies.

Issuance.

New or renewal policies,
§23-90-118.

Purpose of act, §23-90-102.

Receivership.

Duties of receiver, §23-90-116.

Rules and regulations.

Promulgation, §23-90-122.

Short title, §23-90-101.

Suspension or revocation of certificate
of authority, §23-90-113.

Taxation.

Assessments as credit against taxes,
§23-90-119.

Title of chapter, §23-90-101.

Railroads.

Casualty insurance.

Railroad accidents not to be
considered in automobile
insurance, §23-89-302.

PROPERTY INSURANCE —Cont'd
Rates and charges.

Fire protection impact statement,
§23-88-104.

Receivership.

Property and casualty insurance
guaranty.

Duties of receiver, §23-90-116.

**Risk-sharing plans for property and
casualty insurance.**

Board.

Governing board, §23-95-103.

Construction and interpretation.

Effect of chapter upon prior laws,
§23-95-102.

Governing board, §23-95-103.

Hearings.

Availability of amount or kind of
insurance, §23-95-104.

Immunity from liability, §23-95-107.

Intent of chapter, §23-95-101.

Liability.

Immunity, §23-95-107.

Prior laws.

Effect of chapter upon, §23-95-102.

Purposes of chapter, §23-95-101.

Required plan.

Information about services
prescribed in plan.

Participating insurers to provide,
§23-95-106.

Participation by insurer in losses
and expenses, §23-95-105.

Requirements, §23-95-105.

Voluntary plan not approved or
submitted to commissioner.

Commissioner to promulgate plan
to provide insurance coverage,
§23-95-104.

Rules and regulations.

Promulgation by commissioner,
§23-95-108.

Voluntary plan.

Information about services
prescribed.

Participating insurers to provide,
§23-95-106.

Insurers within state to prepare,
§23-95-104.

Participation by insurer in losses
and expenses, §23-95-105.

Requirements, §23-95-105.

Submission to commissioner for
approval, §23-95-104.

Rural risk underwriting association,

§§23-88-301 to 23-88-309.

Appeals, §23-88-309.

PROPERTY INSURANCE —Cont'd**Rural risk underwriting association —Cont'd**

Commissioner's powers and duties,
§23-88-308.

Governing board, §23-88-304.
Insurer.

Defined, §23-88-302.

Legislative intent, §23-88-301.

Liability of insurer, §23-88-307.

Net direct written premiums.

Defined, §23-88-302.

Person.

Defined, §23-88-302.

Plan of property insurance,
§23-88-303.

Promulgation and approval,
§23-88-305.

Provisions, §23-88-306.

Valued policy law.

Property insurance, total loss by fire
or natural disaster, §23-88-101.

PURCHASING GROUPS.**Risk retention and purchasing groups, §§23-94-201 to 23-94-215.**

See RISK RETENTION AND
PURCHASING GROUPS.

Q**QUALITY ASSESSMENT AND IMPROVEMENT SYSTEMS.****Managed health care plans, §§23-99-701 to 23-99-706.**

See MANAGED CARE PLANS.

R**RACING.****Greyhound racing.**

See GREYHOUND RACING.

Horse racing.

General provisions, §§23-110-101 to
23-110-415.

See HORSE RACING.

RAILROADS.**Insurance.**

Casualty insurance.

Railroad accidents not to be
considered in automobile
insurance, §23-89-302.

REAL PROPERTY.**Assessments.**

See ASSESSMENTS.

RECEIVERS.**Continuing care providers.**

Bankruptcy or receivership of provider
resulting from financial
difficulties.

Resident's statutory lien on real and
personal property, §23-93-113.

Insurance.

Property and casualty insurance
guaranty.

Duties of receiver, §23-90-116.

RECORDS.**Amusements, §23-89-516.****Greyhound racing.**

Franchise holders, §23-111-511.

Amount of money wagered,
§23-111-509.

Racing commission to have access,
§23-111-512.

Horse racing.

Franchise holders, §23-110-412.

Racing commission to have access to
records, §23-110-413.

Insurance.

Minimum basic benefit policies.

Requirements for insurers,
§23-98-111.

REMEDIES.**Injunctions.**

General provisions.

See INJUNCTIONS.

REPORTS.**Attorneys at law.**

Legal insurance, §§23-91-215,
23-91-227.

Exempt persons, §23-91-206.

Insurance.

Legal insurance.

Annual report, §23-91-215.

Exempt persons, §23-91-206.

Public documents, §23-91-227.

Life and health insurance guaranty
association.

Board of directors.

Annual report, §23-96-109.

Minimum basic benefit policies.

Requirements for insurers,
§23-98-111.

Property and casualty insurance
guaranty.

Advisory association, §23-90-109.

Risk-based capital act.

Generally.

See INSURANCE.

RESIDENTIAL EARTHQUAKE INSURANCE.

Arkansas earthquake authority act,
§§23-102-101 to 23-102-119.

See EARTHQUAKE AUTHORITY.

RESTRAINING ORDERS.**Injunctions.**

General provisions.

See INJUNCTIONS.

RISK MANAGEMENT.

See INSURANCE.

**RISK RETENTION AND
PURCHASING GROUPS.****Agents.**

Licenses, §§23-94-211, 23-94-213.

Brokers.

Licenses, §§23-94-211, 23-94-213.

Certificates of registration.

Domestic risk retention groups.

Requirements, §23-94-204.

Foreign risk retention groups.

Requirements, §23-94-205.

Purchasing groups, §23-94-208.

Citation of act.

Short title, §23-94-201.

Commissioner.

Administrative and procedural
authority regarding, §23-94-212.

Defined, §23-94-203.

Rules and regulations, §23-94-215.

Compulsory associations, §23-94-206.**Definitions, §23-94-203.****Domestic risk retention groups.**

Certificates of registration.

Requirements, §23-94-204.

Plan of operation or feasibility study.

Required, §23-94-204.

Statements.

Filing, §23-94-204.

Examinations.

Foreign risk retention groups,
§23-94-205.

Foreign risk retention groups.

Certificates of registration.

Requirements, §23-94-205.

Examinations, §23-94-205.

Penalties, §23-94-205.

Plan of operation or feasibility study.

Required, §23-94-205.

Service of process.

Designation of commissioner as
agent for, §23-94-205.

Statements.

Filing, §23-94-205.

Trade practices act.

Compliance with act, §23-94-205.

Injunctions.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in,
§23-94-214.

**RISK RETENTION AND
PURCHASING GROUPS —Cont'd**
Liability insurance.

Restrictions on insurance purchased
by purchasing groups, §23-94-209.

Licenses.

Agents, §§23-94-211, 23-94-213.

Brokers, §§23-94-211, 23-94-213.

Notice.

Foreign risk retention groups.

Notice to purchasers, §23-94-205.

Purchasing groups.

Requirements, §23-94-208.

**Plan of operation or feasibility
study.**

Defined, §23-94-203.

Domestic risk retention groups.

Required, §23-94-204.

Foreign risk retention groups.

Required, §23-94-205.

Privilege taxes, §23-94-210.**Purchasing groups.**

Certificates of registration, §23-94-208.

Compulsory associations, §23-94-206.

Exemption from certain laws,
§23-94-207.

Notice.

Requirements, §23-94-208.

Restrictions on insurance purchased
by, §23-94-209.

Service of process.

Designation of commissioner as
agent, §23-94-208.

Purposes of provisions, §23-94-202.**Registration.**

Certificates of registration.

Domestic risk retention groups.

Requirements, §23-94-204.

Foreign risk retention groups.

Requirements, §23-94-205.

Purchasing groups, §23-94-208.

Rules and regulations.

Commissioner, §23-94-215.

Service of process.

Foreign risk retention groups.

Designation of commissioner as
agent for, §23-94-205.

Purchasing groups.

Designation of commissioner as
agent, §23-94-208.

Subpoenas.

Authority of commissioner, §23-94-212.

Taxation, §23-94-210.**Title of act.**

Short title, §23-94-201.

Trade practices act.

Foreign risk retention groups.

Compliance with act, §23-94-205.

RISK-SHARING PLANS FOR PROPERTY AND CASUALTY INSURANCE, §§23-95-101 to 23-95-108.

See CASUALTY INSURANCE.

RURAL RISK UNDERWRITING ASSOCIATION.

General provisions, §§23-88-301 to 23-88-309.

See INSURANCE.

S

SAFETY.

Amusement ride and attraction safety generally, §§23-89-501 to 23-89-518.

See AMUSEMENTS.

SAFETY RESPONSIBILITY, MOTOR VEHICLES.

Insurance.

College graduates.

Premium reduction for, §23-89-210.

Underinsured motorists, §23-89-209.

Uninsured motorists.

Casualty insurance.

Bodily injury coverage, §23-89-403.

Insurers' insolvency protection, §23-89-402.

Property damage coverage, §23-89-404.

Subrogation of insurer, §23-89-405.

Uninsured motorists defined, §23-89-401.

SALES.

Motor vehicles.

Used motor vehicle buyers protection, §§23-112-601 to 23-112-612.

See MOTOR VEHICLES.

SENTENCING.

Habitual offenders.

Used motor vehicle buyers protection, §23-112-603.

SERVICE OF PROCESS.

Attorneys at law.

Legal insurance, §23-91-208.

Risk retention and purchasing groups.

Foreign risk retention groups.

Designation of commissioner as agent for, §23-94-205.

Purchasing groups.

Designation of commissioner as agent, §23-94-208.

SICKNESS INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

SMALL BUSINESSES.

Insurance.

Small employer health insurance.

See HEALTH INSURANCE.

SPACE WALKS.

Insurance for amusements,

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

STATE POLICE.

Motor vehicles.

Used motor vehicle buyers protection.

Disbursement of fines, §23-112-603.

SUBPOENAS.

Greyhound racing.

Powers of racing commission, §23-111-205.

Horse racing.

Racing commission.

Powers, §23-110-205.

Title insurance.

Agent licenses.

Board, §23-103-202.

SUBROGATION.

Insurance.

Casualty insurance.

Injured person subrogated to right of insured, §23-89-101.

Insurer making payment, §23-89-405.

Life and health insurance guaranty association.

Subrogation rights, §23-96-114.

Underinsured motorists, §23-89-209.

SUNDAY.

Horse racing.

Racing meets.

Sunday racing, §23-110-402.

SURETYSHIP.

Bonds, surety.

General provisions.

See BONDS, SURETY.

T

TAXATION.

Admission tax.

Greyhound racing, §23-111-510.

Horse racing, §23-110-411.

Attorneys at law.

Legal insurance.

Premiums, §23-91-226.

TAXATION —Cont'd**Fire protection districts.**

Assessments generally.

See FIRE PROTECTION
DISTRICTS.

Insurance premium taxes.

See FIRE PROTECTION
DISTRICTS.**Greyhound racing.**

Admission tax, §23-111-510.

Disposition of taxes, §23-111-104.

Horse racing.

Admission tax, §23-110-411.

Disposition of taxes, §23-110-104.

Insurance.

Fire protection districts.

Insurance premium taxes.

See FIRE PROTECTION
DISTRICTS.

Legal insurance.

Premiums, §23-91-226.

Life and health insurance guaranty
association.

Exemption, §23-96-109.

Member insurers.

Premium tax credit, §23-96-115.

Premium taxes.

Fire protection districts.

See FIRE PROTECTION
DISTRICTS.

General provisions.

See INSURANCE.

Property and casualty insurance
guaranty.Assessment as credit against taxes,
§23-90-119.

Risk retention and purchasing groups.

Tax imposed for privilege of
transacting business,
§23-94-203.

Risk retention groups, §23-94-210.

Legal insurance.

Premiums, §23-91-226.

TEMP AGENCIES.**Professional employer****organizations**, §§23-92-401 to
23-92-419.See PROFESSIONAL EMPLOYER
ORGANIZATIONS.**TEMPORARY RESTRAINING
ORDERS.****Injunctions.**

Temporary injunctions.

See INJUNCTIONS.

TITLE INSURANCE.**Agents.**

Access to public records, §23-103-311.

TITLE INSURANCE —Cont'd**Agents —Cont'd**

Board, §§23-103-201 to 23-103-204.

Composition, §23-103-201.

Duties, §23-103-203.

Established, §23-103-201.

Fees, §23-103-204.

Internal operation, §23-103-202.

Organization, §23-103-202.

Powers, §23-103-203.

Subpoena power, §23-103-202.

Continuing education, §23-103-316.

Licenses, §§23-103-101 to 23-103-316.

Abstracters.

Exemption from examination,
§23-103-307.Access to public records,
§23-103-311.

Applications, §23-103-303.

Attorneys at law.

No further qualification required
to be licensed title agent,
§23-103-302.

Cancellation, §23-103-315.

Continuing education, §23-103-316.

Criminal enforcement of provisions,
§23-103-103.

Definitions, §23-103-102.

Examinations, §23-103-304.

Abstracters exempt from
examination, §23-103-307.

Expiration, §23-103-310.

Fees, §23-103-204.

Legislative intent, §23-103-101.

Nonresident licensing, §23-103-306.

Policy as evidence, §23-103-314.

Purpose of provisions, §23-103-101.

Qualifications of licensees,
§23-103-305.

Register of names, §23-103-203.

Renewal, §23-103-310.

Required, §23-103-301.

Revocation of licenses.

Grounds, §23-103-312.

Procedure, §23-103-313.

Rulemaking, §23-103-203.

Short title of act, §23-103-101.

Temporary licenses, §23-103-308.

Transfer, §23-103-315.

Unlicensed colleagues, employees,
assistants, etc., §23-103-309.**Attorneys at law.**

Agent.

Licensing attorney as agent.

No further qualification required,
§23-103-302.**Commitment.**

Evidentiary effect, §23-103-314.

TITLE INSURANCE —Cont'd**Policies.**

Evidentiary effect, §23-103-314.

TORTS.**Damages generally.**

See DAMAGES.

Insurance.

Casualty insurance.

Retention of tort liability,
§23-89-206.

TRACKS.**Greyhound racing generally.**

See GREYHOUND RACING.

Horse racing generally.

See HORSE RACING.

TRUSTS AND TRUSTEES.**Insurance.**

Fraud investigation division,
§§23-100-101 to 23-100-107.

Minimum basic benefit policies.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

U**UNDERINSURED MOTORISTS,**

§23-89-209.

Set-offs or reduction of recovery,

§23-89-403.

UNDERWRITERS.**Rural risk underwriting association.**

See INSURANCE.

UNINSURED MOTORISTS.**Casualty insurance.**

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' solvency protection.

Applicability, §23-89-402.

Property damage coverage, §23-89-404.

UNINSURED MOTORISTS —Cont'd**Casualty insurance —Cont'd**

Subrogation of insurer making
payment, §23-89-405.

USED MOTOR VEHICLES.**Buyers protection.**

General provisions, §§23-112-601 to
23-112-612.

See MOTOR VEHICLES.

V**VALUED POLICY LAW.**

**Property insurance, total loss by fire
or natural disaster, §23-88-101.**

VICARIOUS LIABILITY.**Professional employer
organizations.**

Liability limitation, §23-92-409.

W**WAGERING.****Greyhound racing.**

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

**WATER AMUSEMENT
ATTRACTIONS.****Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

WITNESSES.**Greyhound racing.**

Powers of racing commission as to,
§23-111-205.

Horse racing.

Racing commission.

Powers as to, §23-110-205.

WRITS.**Injunctions.**

General provisions.

See INJUNCTIONS.

Index to Title 23

A

ABSTRACTERS.

Title insurance.

Agent licenses.

Exempt from examination,
§23-103-307.

ACCIDENT INSURANCE.

Accident and health insurance

defined, §23-62-103.

Casualty insurance.

See CASUALTY INSURANCE.

Credit life and disability insurance, §§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY
INSURANCE.

Group accident insurance.

Impairment of speech or hearing,
§23-79-130.

Health insurance.

Generally.

See HEALTH INSURANCE.

Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.

See MUTUAL ASSESSMENT LIFE
AND DISABILITY INSURERS.

ACCIDENTS.

Amusements.

Records and statistics, §23-89-516.

Reporting, §23-89-510.

Railroads.

Clearing right-of-way following
derailment or wreck, §23-12-203.

ACCOUNTANTS.

Certified public accountants.

Insurance commissioner.

Examination of insurers.

Power to retain certified public
accountant, §23-61-203.

ACCOUNTS AND ACCOUNTING.

Aviation.

Air commerce.

Carriers, §23-14-125.

Building and loan associations.

False entry.

Penalty, §23-38-401.

Continuing care providers.

Interest-bearing escrow account.

Provider required to establish,
§23-93-112.

ACCOUNTS AND ACCOUNTING

—Cont'd

Credit unions.

Prohibited actions, §23-35-803.

Highways.

State highway and transportation
department, §23-2-212.

Systems of accounts.

Authority to establish, §23-2-306.

Insurance.

Life and health insurance guaranty
association.

Accident and insurance account.

Maintenance by association,
§23-96-109.

Definition of "account," §23-96-104.

Life insurance and annuity account.

Maintenance by association,
§23-96-109.

Legal insurance.

Separate accounts, §23-91-213.

Public service commission.

Systems of accounts.

Authority to establish, §23-2-306.

Public utilities.

Powers of regulatory commissions as
to, §23-2-306.

Savings and loan associations.

Bonds, surety, §23-37-511.

Claims.

Conflicting claims as to accounts,
§23-37-506.

Deceased nonresidents, §23-37-504.

Dividends on savings accounts,
§23-37-403.

Additional provisions to coincide
with federal associations,
§23-37-403.

Fiduciaries' savings accounts,
§23-37-503.

Initial subscriptions to savings
accounts in permanent stock
associations, §23-37-305.

Insurance of accounts, §23-37-308.

Lien on savings account of borrower,
§23-37-509.

Minors.

Savings accounts of minors,
§23-37-501.

Powers of attorney on savings
accounts, §23-37-508.

ACCOUNTS AND ACCOUNTING

—Cont'd

Savings and loan associations

—Cont'd

Practices generally, §23-37-211.

Savings accounts in the names of two or more persons, §23-37-502.

Withdrawals from savings accounts.

Procedure, §23-37-505.

Restrictions on withdrawals, §23-37-505.

ACKNOWLEDGMENTS.**Building and loan associations.**

Members or employees may take, §23-38-207.

ACTIONS.**Arrest.**

See ARREST.

Attachment.

General provisions.

See ATTACHMENT.

Continuing care providers.

Enforcement of chapter, §23-93-104.

Fraternal benefit societies.

Indemnification or reimbursement of persons threatened by, §23-74-203.

Garnishment.

General provisions.

See GARNISHMENT.

Highways.

State highway and transportation department.

Compelling compliance with provisions of act and orders, §23-1-104.

Insurance.

See INSURANCE.

Limitation of actions.

General provisions.

See LIMITATION OF ACTIONS.

Loan brokers.

Advance fee loan brokers.

Violations of subchapter, §23-39-405.

Mortgages and deeds of trust.

Home loan protection act.

High-cost home loans.

Liability for violations, §23-53-106.

Public service commission.

Compelling compliance with provisions of act and orders, §23-1-104.

Public utilities.

Jurisdiction.

Actions by or against commission, §23-1-108.

Jury.

Actions to be tried without jury, §23-1-110.

ACTIONS —Cont'd**Railroads.**

Discrimination.

Recovery of penalties, §23-10-103.

Injuries.

Who may sue for personal injuries, §23-12-903.

Rural telecommunications cooperatives.

Indemnification of directors, officers, employees or agents, §23-17-238.

Limitation of actions.

Suits against telecommunications companies or cooperatives, §23-17-237.

Power to sue and be sued in corporate name, §23-17-205.

Savings and loan associations.

Damages.

Limitation on right to recover damages from association, §23-37-507.

Underinsured motorists, §23-89-209.**Viatical settlements.**

Civil remedies, §23-81-613.

ACTUARIES.**Insurance.**

Examination of insurers.

Commissioner may retain independent actuaries, §23-61-203.

ADJUSTERS.**Insurance.**

See INSURANCE.

ADMINISTRATIVE PROCEDURE.**Health maintenance organizations.**

Proceedings, §23-76-126.

Medicare supplement insurance policy provisions.

Applicability of act, §23-79-409.

ADMISSION TAX.**Greyhound racing, §23-111-510.****Horse racing, §23-110-411.****ADOPTION.****Health insurance.**

Coverage for adopted minors, §23-79-137.

ADVERTISING.**Building and loan associations.**

Publication of false advertisement or report of financial condition.

Penalty, §23-38-402.

Continuing care providers.

Untrue, deceptive or misleading statements.

Prohibited, §23-93-110.

ADVERTISING —Cont'd**Health maintenance organizations.**

Untrue or misleading advertising.

Prohibited practices, §23-76-119.

Informational advertising.

Defined, §23-4-207.

Insurance.

False advertising.

Federal or state government endorsement, §23-66-609.

Life and health insurance guaranty association act.

Advertisement of act in insurance sales.

Prohibited, §23-96-105.

Long-term care insurance.

Compliance with subchapter.

Required, §23-97-205.

Property and casualty insurance guaranty.

Prohibited advertisements or statements, §23-90-121.

Unfair competition and trade practices.

Prior approval required, §23-66-316.

Medicare supplement insurance policies.

Filing requirements, §23-79-408.

Mortgage bankers, brokers and servicers.

Prohibited activities, §23-39-513.

Motor vehicles.

Used motor vehicle dealers.

Requirements for printed advertisements, §23-112-610.

Political advertising.

Defined, §23-4-207.

Promotional advertising.

Defined, §23-4-207.

Public utilities.

Recovery of advertising costs, §23-4-207.

Railroads.

Passes.

Issuance in exchange for advertising space, §23-4-806.

Securities regulation.

Filing requirement, §23-42-405.

Used motor vehicle dealers.

Requirements for printed advertisements, §23-112-610.

Viatical settlements, §23-81-611.**AERONAUTICS.**

See AVIATION.

AFFIDAVITS.**Banks.**

Organizational expenses, §23-48-303.

AFFIDAVITS —Cont'd**Greyhound racing.**

Residence of officers and directors of franchise holders, §23-111-406.

Penalty for false affidavit, §23-111-406.

Insurance.

Brokers.

Surplus lines, §23-65-306.

Professional employer organizations.

Employer service assurance organization affidavit, §23-92-414.

Filing, §23-92-418.

Trusts and trustees.

Banks as trustees, §23-47-706.

AGE.**Fraternal benefit societies.**

Membership.

Adult membership.

Minimum age, §23-74-201.

AGED PERSONS.**Continuing care providers,**

§§23-93-101 to 23-93-207.

See CONTINUING CARE PROVIDERS.

AGENTS.**Audits.**

Checks.

Sale of checks act.

Conduct of business, §23-41-118.

Automobile clubs or associations, §23-77-108.**Banks.**

Affiliates, §23-48-105.

Certificates of deposit, §§23-47-301 to 23-47-309. See within this heading, "Certificates of deposit."

Obligation to inquire into limitations on powers, §23-48-104.

Out-of-state banks.

Registered agents, §23-48-1004.

Change of agent, §23-48-1005.

Resignation, §23-48-1006.

Certificates of deposit.

Definitions, §23-47-301.

Designation, §§23-32-501 to 23-32-507.

Designation of agent, §23-47-304.

Discharge of bank from claims, §23-47-307.

Effect on other laws, §23-47-309.

Forms, §23-47-303.

Payments to agent, §23-47-305.

Discharge of bank, §23-47-307.

Payments to minors, §23-47-306.

Scope of subchapter, §23-47-302.

AGENTS —Cont'd**Certificates of deposit —Cont'd**

Setoffs, §23-47-308.

Termination of agency, §23-47-304.

Farmers' mutual aid associations.

Licensing, §23-73-121.

Financial institutions.Designation on certificates of deposit,
§§23-32-501 to 23-32-507.**Forms.**

Certificates of deposit.

Agency designation, §23-47-303.

Health maintenance organizations.

Regulation, §23-76-120.

Insurance.

See INSURANCE.

Legal insurance.

Licenses, §23-91-219.

Management and exclusive agency
contracts, §23-91-214.**Public utilities.**Acts of agent are acts of corporation,
§23-1-107.**Savings and loan associations.**

Foreign associations, §23-37-602.

Securities regulation.

See SECURITIES REGULATIONS.

Title insurance.

Licensing, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

Trustees.

Delegation to agent, §23-51-208.

AGRICULTURE.**Electric cooperative corporations.**General provisions, §§23-18-301 to
23-18-331.See ELECTRIC COOPERATIVE
CORPORATIONS.**Farmers' mutual aid associations,**

§§23-73-101 to 23-73-123.

See FARMERS' MUTUAL AID
ASSOCIATIONS.**Futures.**Dealing in futures generally,
§§23-44-101 to 23-44-109.

See FUTURES.

Insurance.Farmers' mutual aid associations,
§§23-73-101 to 23-73-123.See FARMERS' MUTUAL AID
ASSOCIATIONS.**Loans.**Liens on agricultural lands as
security.

Prepayment, §23-32-203.

AGRICULTURE —Cont'd**Telecommunications.**

Rural telecommunications

cooperatives, §§23-17-201 to
23-17-242.

See RURAL

TELECOMMUNICATIONS
COOPERATIVES.**AIDING AND ABETTING.****Building and loan associations.**Penalty for aiding or abetting
violations, §23-38-401.**AIR COMMERCE.****Aviation.**

See AVIATION.

ALCOHOLIC BEVERAGES.**Drunkenness.**

See DRUNKENNESS.

Insurance.Care and treatment of alcohol and
drug dependency.Insurers transacting health,
accident or disability insurance
in state.Requirements of group policies,
contracts and plans providing
hospital and medical
coverage, §23-79-139.

Health insurance.

Policy provisions, §23-85-126.

Motor carriers.Operation while consuming or under
influence of, §23-13-258.**ALIENS.****Insurance.**

Alien insurers.

Defined, §23-60-102.

Domicile, §23-63-104.

AMBULANCES.**Insurance.**Direct reimbursement for ambulance
services, §23-79-148.**AMUSEMENT RIDE AND****AMUSEMENT SAFETY**INSURANCE, §§23-89-501 to
23-89-518.**AMUSEMENTS.****Accidents.**Records and statistics, §23-89-516.
Reporting, §23-89-510.**Amusement ride and amusement
attraction safety insurance.**

Accidents.

Records and statistics, §23-89-516.
Reporting, §23-89-510.

AMUSEMENTS —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd****Bungee jumping.**

Prohibited bungee operations,
§23-89-512.

Cancellation of coverage.

Notice, §23-89-507.

Orders, §23-89-507.

Cease and desist orders.

Notice required, §23-89-509.

Operation without safety inspection
and insurance, §23-89-504.

Unsafe conditions, §23-89-507.

Citation of subchapter, §23-89-501.**Definitions, §23-89-502.**

Disposition of funds received under
provisions, §23-89-517.

Emergency inspections, §23-89-506.

Exemptions from provisions,
§23-89-503.

Fees.

Action for delinquent fees,
§23-89-504.

Disposition of funds received under
provisions, §23-89-517.

Inspectors, §23-89-504.**Minimum amount, §23-89-505.****Misdemeanors.**

Operation without safety inspection
and insurance, §23-89-504.

Nondestructive testing.

Compliance with manufacturer
standards, §23-89-515.

Defined, §23-89-502.

Operation without safety inspection
and insurance unlawful,
§23-89-504.

Orders.

Cancellation or suspension of
permits.

Transmission to Arkansas state
police, §23-89-509.

Penalties.

Operation without safety inspection
and insurance, §23-89-504.

Permits.

Required, §23-89-505.

Portable attractions.

Safety inspections, §23-89-506.

Proof of coverage, §23-89-505.**Ride operators, §23-89-511.****Rider safety.**

Duties of patrons, §23-89-514.

Posting notices, §23-89-513.

Rules and regulations.

Promulgation, §23-89-508.

AMUSEMENTS —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd****Safety inspections.**

Director, §23-89-506.

Emergency inspections, §23-89-506.

Fee, §23-89-505.

Determination of fee amounts,
§23-89-506.

Frequency, §23-89-506.

Insurance company, §23-89-507.

Portable attractions, §23-89-506.

Required, §§23-89-504, 23-89-505.

Title of subchapter, §23-89-501.

Unsafe conditions.

Cease and desist orders, §23-89-507.

Notice, §23-89-507.

Amusement ride safety advisory board, §23-89-518.**Bungee jumping.**

Prohibited bungee operations,
§23-89-512.

Inspections.**Amusement rides.**

Insurance inspections, §§23-89-504
to 23-89-507.

Intoxication.

Ride operators, §23-89-511.

Nondestructive testing.

Compliance with manufacturer
standards, §23-89-515.

Defined, §23-89-502.

Operators of rides.

Qualifications, §23-89-511.

Standard of care, §23-89-511.

Records, §23-89-516.**Ride operators.**

Qualifications, §23-89-511.

Standard of care, §23-89-511.

Rider safety.

Duties of patrons, §23-89-514.

Posting notice, §23-89-513.

ANNUITIES.**Fraternal benefit societies.**

Contractual benefits provided by
societies.

Annuity benefits, §23-74-401.

Insurance.

General provisions.

See INSURANCE.

APPEALS.**Arkansas earthquake authority.**

Rulings or decisions of board,
§23-102-115.

Banking board.

Final decisions, §23-46-407.

APPEALS —Cont'd**Banks.**

Out-of-state banks.

Revocation of certificate of authority,
§23-48-1011.

Carriers.

Motor carriers.

Complaints against carriers.

Orders of state highway and
transportation department,
§23-13-308.

State highway and transportation
department.

Orders of department, §23-2-425.

Check-cashers.

Permit denial, §23-52-113.

Checks.

Sale of checks act.

Hearings, §23-41-109.

Fraternal benefit societies.

Decisions and findings of
commissioner of insurance.

Review of, §23-74-702.

Greyhound racing.

Franchises to conduct races.

Refusal to grant temporary
franchise, §23-111-302.

Highways.

State highway and transportation
department.

Motor carriers.

Complaints against carriers.

Order of department,
§23-13-308.

Orders.

Appeals to circuit court, §23-2-425.

Appeals from circuit court to
supreme court, §23-2-425.

Motor carriers.

Complaints against carriers,
§23-13-308.

Horse racing.

Findings and orders of racing
commission, §23-110-205.

Franchises to conduct horse races.

Refusal to grant, §23-110-302.

Hospital and medical service corporations.

Review of decisions, §23-75-118.

Insurance.

Burial associations.

Revocation of certificates of
authority, §§23-78-124,
23-78-125.

Commissioner.

Decisions of commissioner,
§23-61-307.

APPEALS —Cont'd**Insurance —Cont'd**

Credit life and disability insurance.

Parties aggrieved by decisions of
commissioner, §23-87-119.

Delinquency proceedings, §23-68-103.

Holding companies.

Acts or determinations of
commissioner, §23-63-519.

Material transactions disclosures,
§23-63-1406.

Policies.

Commercial property and casualty
insurance policies.

Appeals from orders of
commissioner, §23-79-309.

Property and casualty insurance
guaranty.

Rulings of commissioner,
§23-90-123.

Rural risk underwriting association.

Applicants for policy, persons
insured under plan and others
affected by plan may appeal to
commissioner, §23-88-309.

Mortgage bankers, brokers and servicers.

Review of order of securities
commissioner, §23-39-515.

Motor carriers.

Complaints against carriers.

Orders of state highway and
transportation department,
§23-13-308.

Orders of transportation commission,
§23-13-211.

Filing fees, §23-13-215.

Notice, §23-13-212.

Stay of operating authority pending
appeal, §23-13-213.

Transcript, §23-13-214.

Pipelines.

Fertilizer.

Transportation of ammonia and
other substances comprising
fertilizer or used in its
manufacture.

Orders on applications for
authority to transport,
§23-15-105.

Public service commission.

Navigable water crossings.

Generally, §§23-3-511, 23-3-512.

Orders.

Judicial review, §23-2-423.

Effect, §23-2-424.

APPEALS —Cont'd**Public utilities.**

Acquisition, control or merger.

Judicial review of orders of commission, §23-3-313.

Stay of order pending review, §23-3-314.

Environmental and economic protection.

Certificates of environmental compatibility and public need.

Decisions of commission on application for, §23-18-524.

Navigable water crossings, §§23-3-511, 23-3-512.

Risk-based capital act.

Penalties for violation of provisions, §23-63-1314.

Savings and loan associations.

Decision or order of board, §23-37-214.

Appeal to supreme court, §23-37-214.

Trust companies.

Acquisition.

Appeal from adverse decision, §23-51-137.

Commissioner hearings, §23-51-112.

Workers' compensation.

Insurance.

Mandatory insurance plan.

Appeals of orders or rulings, §23-67-309.

APPEARANCES.**Insurance.**

Unfair competition and trade practices.

Hearings, §23-66-209.

APPRAISALS AND APPRAISERS.**Insurance.**

Examination of insurers.

Commissioner may retain appraisers, §23-61-203.

ARBITRATION.**Mortgages and deeds of trust.**

Home loan protection act.

High-cost home loans.

Mandatory arbitration clause, prohibition, §23-53-104.

Railroads.

Livestock.

Killing or injuring.

Arbitration of damages, §23-12-912.

ARKANSAS EARTHQUAKE

AUTHORITY ACT, §§23-102-101 to 23-102-119.

See **EARTHQUAKE AUTHORITY**.

ARKANSAS HOME LOAN PROTECTION ACT.

High cost home loans, §§23-53-101 to 23-53-106.

See **MORTGAGES AND DEEDS OF TRUST**.

ARKANSAS MUNICIPAL ELECTRIC UTILITY INTERLOCAL COOPERATION ACT.

See **MUNICIPAL ELECTRIC**

CONSOLIDATED AUTHORITIES.

ARKANSAS PUBLIC SERVICE COMMISSION.

See **PUBLIC SERVICE COMMISSION**.

ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001, §§23-18-601 to 23-18-604.**ARKANSAS RURAL RISK UNDERWRITING ASSOCIATION.**

General provisions, §§23-88-301 to 23-88-309.

See **INSURANCE**.

ARREST.**Motor carriers.**

Enforcement officers, §23-13-217.

Passengers.

Numbered seating and aisle spaces.

Occupation of space not assigned, §23-13-405.

Refusal to take assigned seat, §23-13-406.

Railroads.

Drunken persons.

Authority of conductors, §23-12-708.

Railroad police.

Jailing of persons arrested, §23-12-704.

Power to arrest, §23-12-703.

Solicitation of business on train or in depot.

Duty of trainmen to arrest violators, §23-10-208.

ARSON.**Insurance.**

Anti-arson applications, §§23-88-201 to 23-88-210.

Alternative application, §23-88-209.

Applicability of provisions, §23-88-203.

Assignment of policy or contract.

When completion of anti-arson application required, §23-88-203.

Change in information.

Notification, §23-88-208.

Defined, §23-88-202.

ARSON —Cont'd**Insurance —Cont'd**

Anti arson applications —Cont'd
Forms.

Promulgation by insurance
commissioner, §23-88-205.

Mandatory use, §23-88-206.

Penalties.

Violations of subchapter,
§23-88-204.

Purpose of subchapter, §23-88-201.

Required to enter into insurance
contract, §23-88-207.

Termination of contracts,
§23-88-210.

ASSESSMENTS.**Comprehensive health insurance
pool, §23-79-507.**

Maximum amount, §23-79-508.

Fire protection districts.

See FIRE PROTECTION DISTRICTS.

Insurance.

Burial associations.

Membership dues and assessments,
§23-78-116.

Delinquency proceedings.

Order and levy of assessment,
§23-68-131.

Prima facie correct, §23-68-132.

Report and petition for assessment,
§23-68-130.

Domestic stock and mutual insurers.

Stockholders or members,
§23-69-139.

Life and health insurance guaranty
association.

Assessment of member insurers,
§23-96-115.

Mutual assessment life and disability
insurers, §§23-72-101 to
23-72-122.

See MUTUAL ASSESSMENT LIFE
AND DISABILITY INSURERS.

Property and casualty insurance
guaranty.

Accounting for and repayment of
assessments, §23-90-114.

Claims, §23-90-112.

Taxation.

Credit against taxes, §23-90-119.

Reciprocal insurers, §23-70-118.

Nonassessable policies, §23-70-120.

Time limit for assessments,
§23-70-118.

Rural risk underwriting association.

Governing board empowered to
make, §23-88-306.

ASSETS.**Building and loan associations.**

Real property.

Valuation, §23-38-214.

Sale of all or portion of assets,
§23-38-218.

Credit unions.

Reduction of assets, §23-35-608.

Fraternal benefit societies.

Held, invested and disbursed for use
and benefit of society, §23-74-502.

Insurance.

Conflicts in treatment of, §23-63-610.

Deductions from liabilities, §23-63-602.

Defined, §23-63-601.

Delinquency proceedings.

Attachment and garnishment,
§23-68-120.

Borrowing on pledge of assets,
§23-68-123.

Deposits.

Assignment or conveyance of
securities or assets, §23-63-906.

Domestic stock and mutual insurers.

Dissolution.

Distribution of assets to
stockholders, §23-69-154.

Impairment of capital or assets,
§23-69-138.

Liquidation.

Mutual member's share of assets
upon liquidation, §23-69-155.

Limitations, §23-63-603.

Purpose of provisions, §23-63-612.

Reciprocal insurers.

Liquidation of companies.

Subscribers' share in assets,
§23-70-122.

Valuation, §23-63-611.

Legal insurance.

Investment of assets, §23-91-217.

Rural telephone cooperatives.

Dissolution.

Disposition of assets, §23-17-225.

ASSIGNMENTS.**Fraternal benefit societies.**

Benefit contracts, §23-74-404.

Insurance.

Deposits.

Conveyance or assignment of
securities or assets, §23-63-906.

Life and health insurance guaranty
association.

Assignment rights, §23-96-114.

Policies, §23-79-124.

Securities regulations.

Unlawful acts by investment advisers,
§23-42-307.

ASSOCIATIONS.

Arkansas rural risk underwriting association, §§23-88-301 to 23-88-309.

See INSURANCE.

Automobile clubs or associations, §§23-77-101 to 23-77-109.

See AUTOMOBILE CLUBS OR ASSOCIATIONS.

Building and loan associations.

General provisions, §§23-38-101 to 23-38-404.

See BUILDING AND LOAN ASSOCIATIONS.

Burial associations.

Insurance, §§23-78-101 to 23-78-125.

See INSURANCE.

Farmers' mutual aid associations.

See FARMERS' MUTUAL AID ASSOCIATIONS.

Insurance.

Burial associations, §§23-78-101 to 23-78-125.

See BURIAL INSURANCE ASSOCIATIONS.

Farmers' mutual aid associations.

See INSURANCE.

Life and health insurance guaranty association.

General provisions, §§23-96-101 to 23-96-121.

See DISABILITY INSURANCE.

Rural risk underwriting association, §§23-88-301 to 23-88-309.

See INSURANCE.

Life and health insurance guaranty association.

General provisions, §§23-96-101 to 23-96-121.

See DISABILITY INSURANCE.

Motor vehicles.

Automobile clubs or associations, §§23-77-101 to 23-77-109.

See AUTOMOBILE CLUBS OR ASSOCIATIONS.

Rural risk underwriting association, §§23-88-301, 23-88-309.

See INSURANCE.

Savings and loan associations.

General provisions, §§23-37-101 to 23-37-706.

See SAVINGS AND LOAN ASSOCIATIONS.

ATM'S, §§23-48-801 to 23-48-810.

Fees, §23-32-208.

Sharing of terminals, §23-32-208.

ATTACHMENT.

Fraternal benefit societies.

Benefits not attachable, §23-74-403.

Insurance.

Delinquency proceedings.

Assets, §23-68-120.

Mutual assessment life and disability insurers.

Benefits not subject to attachment, §23-72-114.

Stipulated premium insurers.

Benefits not subject to attachment, §23-71-112.

ATTORNEY GENERAL.

Consumer utilities rate advocacy division, §§23-4-301 to 23-4-307.

See PUBLIC UTILITIES.

Fraternal benefit societies.

Domestic societies.

Injunctions.

Commencing action, §23-74-606.

Injunctions.

Recognition of proceedings.

Application or petition made by attorney general upon request of commissioner, §23-74-608.

Public utilities.

Consumer utilities rate advocacy

division, §§23-4-301 to 23-4-307.

See PUBLIC UTILITIES.

Railroads.

Passes.

Permitted to accept and use pass, §23-4-804.

ATTORNEYS AT LAW.

Bonds, surety.

Insurance.

Reciprocal insurers, §23-70-110.

Definitions.

Legal insurance, §23-91-203.

Ethics.

Legal insurance, §23-91-221.

Insurance.

Actions.

Suits against insurers.

Damages and attorney's fees on loss claims, §23-79-208.

Examination of insurers.

Commissioner may retain attorneys, §23-61-203.

Fees.

See ATTORNEYS' FEES.

Legal insurance, §§23-91-201 to 23-91-227. See within this heading, "Legal insurance."

Reciprocal insurers.

Bonds, surety, §23-70-110.

Action on bond, §23-70-110.

ATTORNEYS AT LAW —Cont'd**Insurance —Cont'd**

Reciprocal insurers —Cont'd

Bonds, surety —Cont'd

Deposit in lieu of bond,
§23-70-110.

Power of attorney, §23-70-108.

Legal insurance.

Accounts and accounting.

Separate accounts, §23-91-213.

Agents.

Licenses, §23-91-219.

Management and exclusive agency
contracts, §23-91-214.

Annual report, §23-91-215.

Applicability of general insurance law.

To all legal insurers, hearings and
appeals, §23-91-204.

To insurance companies, §23-91-204.

Trade practices, §23-91-218.

Assets.

Investments, §23-91-217.

Certificates of authority.

Applications, §23-91-208.

Public documents, §23-91-227.

Conditions for issuing, §23-91-209.

Issuance, §23-91-209.

Required, §23-91-208.

Suspension, revocation or refusal to
renew, §23-91-222.

Citation of subchapter, §23-91-201.

Contracts.

Management and exclusive agency
contracts, §23-91-214.

Definitions, §23-91-203.

Ethics, §23-91-221.

Examinations.

Grounds, §23-91-220.

Exemptions, §23-91-206.

Legal referral services program.

Requirements prior to
administering, §23-91-206.

Fees.

Payment to commissioner,
§23-91-225.

General insurance law.

Applicability to all legal insurers,
hearings and appeals,
§23-91-204.Applicability to insurance
companies, §23-91-204.

Hearings.

Applicability of general insurance
law, §23-91-204.

Investments.

Assets, §23-91-217.

ATTORNEYS AT LAW —Cont'd**Legal insurance —Cont'd**

Legal referral services program.

Requirements of persons exempt
from provisions of subchapter
prior to administering,
§23-91-206.

Legislative declaration, §23-91-202.

Licenses.

Agents, §23-91-219.

Liquidation, §23-91-223.

Management and exclusive agency
contracts, §23-91-214.

Penalties.

Generally, §23-91-207.

Policies.

Forms.

Approval, §23-91-212.

Regulation, §23-91-210.

Premiums.

Taxation, §23-91-226.

Professional ethics, §23-91-221.

Public documents, §23-91-227.

Purposes, §23-91-202.

Rates.

Approval, §23-91-212.

Regulation, §23-91-211.

Regulation of policy forms, §23-91-210.

Regulation of rates, §23-91-211.

Rehabilitation, §23-91-223.

Reports.

Annual report, §23-91-215.

Exempt persons, §23-91-206.

Public documents, §23-91-227.

Reserves.

Maintenance, §23-91-216.

Revocation of certificate of authority,
§23-91-222.

Rules and regulations.

Authority to promulgate, §23-91-224.

Separate accounts, §23-91-213.

Service of process, §23-91-208.

Short title, §23-91-201.

Suspension of certificate of authority,
§23-91-222.

Taxation, §23-91-226.

Trade practices, §23-91-218.

Unauthorized insurance, §23-91-205.

Violations.

Penalty provisions, §23-91-207.

Unauthorized insurance, §23-91-205.

Licenses.

Legal insurance.

Agents, §23-91-219.

**Multiple employer trust and
self-insured plans.**

Bonds, surety.

Required.

Exception, §23-92-204.

ATTORNEYS AT LAW —Cont'd**Powers of attorney.**

General provisions.

See **POWERS OF ATTORNEY.****Professional ethics.**

Legal insurance, §23-91-221.

Public service commission.

Assistant general counsel, §23-2-106.

Practice of law.

Restrictions on activities of members and employees, §23-2-107.

Railroads.

Suits against railroad companies for violations.

Attorney's fee taxed, §23-12-105.

Reports.

Legal insurance, §§23-91-215, 23-91-227.

Exempt persons, §23-91-206.

Title insurance agents.

Licenses.

No further qualification required to be licensed title agent, §23-103-302.

ATTORNEYS' FEES.**Insurance claims.**

Suits against insurers, §23-79-208.

Allowance of attorney's fees in suits to terminate, modify or reinstate policies, §23-79-209.

Unauthorized insurers.

Actions against, §23-65-205.

Loan brokers.

Advance fee loan brokers.

Action for violations of subchapter, §23-39-405.

Mortgages and deeds of trust.

Home loan protection act.

High-cost home loans.

Liability for violations, §23-53-106.

Railroads.

Suits against railroad companies for violations.

Attorney's fees taxed, §23-12-105.

AUDITOR OF STATE.**Railroad passes.**

Permitted to accept and use pass, §23-4-804.

AUDITS AND AUDITORS.**Agents.**

Sale of checks act.

Conduct of business, §23-41-118.

Checks.

Sale of checks act, §23-41-120.

Savings and loan associations.

Annual audit and examination procedure, §23-37-210.

AUTHORITIES.**Electricity.**

Municipal electric consolidated authorities.

See **MUNICIPAL ELECTRIC CONSOLIDATED AUTHORITIES.****AUTOMATIC TELLER MACHINES,**

§§23-48-801 to 23-48-810.

Attendants for terminals, §23-48-807.**Confidentiality of information.**

Account information, §23-48-808.

Definitions, §23-48-801.**Fees, §23-32-208.**

Shared terminals, §23-48-810.

Financial institutions.

Sharing, §23-32-208.

Interconnected terminals, §23-48-806.**Location, §23-48-802.****Notice of establishment, §23-48-803.****Out-of-state banks, §23-48-804.****Point-of-sale terminals excluded, §23-48-805.****Powers of banks.**

Conformed powers of national banks, §23-48-809.

Sharing of terminals, §§23-32-208, 23-48-810.**Verification of transactions, §23-48-807.****AUTOMOBILE CLUBS OR ASSOCIATIONS.****Agent.**

License, §23-77-108.

Fee, §23-77-108.

Certificates of authority.

Applications, §23-77-106.

Fees, §23-77-106.

Issuance, §23-77-106.

Power to grant, §23-77-105.

Required, §23-77-106.

Suspension or revocation, §23-77-107.

Definitions, §23-77-101.**Exclusive authority for operation of clubs and associations, §23-77-102.****Fees.**

Agents.

Annual license fee, §23-77-108.

Certificates of authority, §23-77-106.

Financial reporting, §23-77-106.**Hearings.**

Insurance commissioner may conduct hearings, §23-77-105.

Suspension or revocation of certificate, §23-77-107.

AUTOMOBILE CLUBS OR ASSOCIATIONS —Cont'd**Insurance commissioner.**

Information.

Duty to provide, §23-77-109.

Powers, §§23-77-104, 23-77-105.

Licenses.

Agents, §23-77-108.

Misdemeanors.

Violations of provisions, §23-77-103.

Penalties.

Violations of provisions, §23-77-103.

Registered agent.

Service of process, §23-77-106.

Reports.

Annual report, §23-77-109.

Financial reporting, §23-77-106.

Rules and regulations.

Insurance commissioner, §23-77-105.

Violations of rules.

Penalties, §23-77-103.

Service of process, §23-77-106.**Violations of provisions.**

Penalties, §23-77-103.

AUTOMOBILES.

See MOTOR VEHICLES.

AUTOPSIES.**Health insurance.**

Policy provisions, §23-85-115.

AVIATION.**Accounts and accounting.**

Air commerce.

Carriers, §23-14-125.

Air commerce.

Abandonment of service, §23-14-120.

Accounts and accounting.

Carriers, §23-14-125.

Bonds, surety.

Carriers, §23-14-112.

Certificates.

Applications for, §23-14-110.

Fee, §23-14-128.

Notice of filing, §23-14-110.

Emergency landings.

Terms and conditions of
certificates not violated,
§23-14-127.Evidence of compliance with other
laws required, §23-14-113.

Issuance, §23-14-114.

Evidence of compliance with other
laws required, §23-14-113.

Temporary certificate, §23-14-111.

Lease of certificate, §23-14-116.

Modification, §23-14-117.

Required to engage in business,
§23-14-109.**AVIATION —Cont'd****Air commerce —Cont'd**

Certificates —Cont'd

Suspension or revocation,
§23-14-117.

Temporary certificate, §23-14-111.

Terms and conditions, §23-14-115.

Emergency landings.

Terms and conditions of
certificates not violated,
§23-14-127.

Transfer, §23-14-116.

Citation of act.

Short title, §23-14-101.

Control, supervision and regulation.

Transportation safety agency,
§23-14-106.

Definitions, §23-14-102.

Discontinuance of service, §23-14-120.

Exemptions from act.

Interstate common carriers,
§23-14-103.

United States mail, §23-14-103.

Extension of service.

Transportation safety agency may
require, §23-14-119.

Interstate common carriers.

Exemption from provisions,
§23-14-103.

Investigations.

Powers of transportation safety
agency, §23-14-107.

Mail.

Exemption of United States mail
from provisions, §23-14-103.

Notice.

Abandonment or discontinuance of
service, §23-14-120.

Certificates.

Filing of application, §23-14-110.

Extension of service, §23-14-119.

Required upon notice, §23-14-119.

Rates and charges.

Changes.

Suspension of proposed new rate,
§23-14-123.

Free or reduced service, §23-14-122.

Just and reasonable rates,
§23-14-118.

Tariffs.

Filing, §23-14-121.

Observance, §23-14-121.

Reports.

Carriers, §23-14-125.

Right of entry.

Transportation safety agency,
§23-14-126.

AVIATION —Cont'd**Air commerce —Cont'd**

- Rules and regulations.
- Penalties for violations, §23-14-104.
- Service.
 - Extension, §23-14-119.
 - Reasonable and adequate service and facility, §23-14-118.
- State highway and transportation department.
- Conflicts of interest.
 - Prohibited, §23-14-108.
- Control, supervision and regulation, §23-14-106.
- Definition of "commission," §23-14-102.
- Duties, §23-14-107.
- Fees, §23-14-128.
- Powers, §23-14-107.
- Right of entry, §23-14-126.
- Stock and stockholders.
 - Issuance of securities by carriers, §23-14-124.
- Title of act.
 - Short title, §23-14-101.
- Violations of act or regulations.
 - Penalties, §23-14-104.

Bonds, surety.

- Air commerce.
- Carriers, §23-14-112.

Commerce.

- Compliance with chapter.
- Required, §23-14-105.

Conflicts of interest.

- Air commerce.
- Transportation commission, §23-14-108.

Definitions.

- Air commerce, §23-14-102.

Fees.

- Air commerce.
- Transportation safety agency, §23-14-128.

Investigations.

- Air commerce.
- Powers of transportation safety agency, §23-14-107.

Mail.

- Air commerce.
- United States mail exempt from provisions, §23-14-103.

Misdemeanors.

- Air commerce.
- Violations of act or regulations, §23-14-104.

Penalties.

- Air commerce.
- Violations of act or regulations, §23-14-104.

AVIATION —Cont'd**Rates and charges.**

- Changes.
- Approval of commission, §23-14-123.

Reports.

- Air commerce.
- Carriers, §23-14-125.

Rules and regulations.

- Air commerce.
- Penalties for violations, §23-14-104.

B**BACKGROUND CHECKS.****Professional employer organizations.**

- Controlling persons, §23-92-405.

BANK DEPARTMENT, §§23-46-201 to 23-46-211.**Bonds, surety.**

- Employee bonds, §23-46-208.

Commissioner.

- Appointment and removal, §23-46-204.
- Immunity from liability, §23-46-206.
- Powers and duties, §23-46-205.
- Proceedings before, §§23-46-401 to 23-46-407.
- Reports, §23-46-210.
- Trust powers of bank.
 - Authority of commissioner, §23-47-701.

Confidentiality of information.

- Records, §23-46-101.
- Travel expenses of staff, §23-46-206.

Conflicts of interest.

- Staff, §23-46-207.

Creation, §23-46-201.**Disposition of fees and revenues, §23-46-209.****Employee bonds, §23-46-208.****Evidence.**

- Sealed instruments, §23-46-203.

Fees.

- Disposition, §23-46-209.
- Sealed instruments, §23-46-203.

Offices, §23-46-202.**Records, §23-46-209.**

- Confidentiality, §23-46-101.
- Retention, §23-46-211.

Reports.

- Commissioner's reports, §23-46-210.
- Monthly financial reports, §23-46-209.

Seal, §23-46-203.**Staff, §23-46-206.**

- Conflicts of interest, §23-46-207.
- Employee bonds, §23-46-208.

BANKER'S BANKS, §23-48-325.**BANK HOLDING COMPANIES,**

§§23-48-401 to 23-48-406.

Administration of subchapter,

§23-48-404.

Applicability of subchapter,

§23-48-402.

Assets.

Limitations on acquisition, §23-48-406.

Definitions, §23-48-401.**Merger into state bank, §23-48-509.****Penalties for violations, §23-48-403.****Stock.**

Limitations on acquisitions of bank stock or assets, §23-48-406.

Subsidiaries.

Limitation on ownership or control, §23-48-405.

BANKING BOARD, §§23-46-301 to 23-46-305.**Appeals.**

Final decisions, §23-46-407.

Applicability of provisions,

§23-46-401.

Applications.

Consideration, §23-46-305.

Fees, §23-46-404.

Rules and regulations, §23-46-404.

Composition, §23-46-301.**Confidentiality of information.**

Records, §23-46-101.

Creation, §23-46-301.**Fees.**

Applications, §23-46-404.

Filings with commissioner.

Effect, §23-46-304.

Hearings, §23-46-406.

Final decisions, §23-46-407.

Notice of hearing, §23-46-405.

Investigations, §23-46-405.**Meetings, §23-46-402.****Notice.**

Applications file, §23-46-403.

Hearings, §23-46-405.

Meetings, §23-46-402.

Powers, §23-46-304.**Records.**

Confidentiality, §23-46-101.

Rules and regulations.

Applications, §23-46-404.

Special members, §23-46-302.**Studies of state statutes, §23-46-303.****BANKRUPTCY AND INSOLVENCY.****Building and loan associations.**

Insolvency and illegal practices.

See BUILDING AND LOAN ASSOCIATIONS.

BANKRUPTCY AND INSOLVENCY

—Cont'd

Continuing care providers.

Resident's statutory lien on real and personal property, §23-93-113.

Industrial loan institutions.

Bank commissioner taking charge of institution, §23-36-116.

BANKS, §§23-45-101 to 23-50-110.**Acquisitions.**

Out-of-state branches, §23-48-904.

Purchase or assumption of another depository institution, §23-48-510.

Adverse claims to deposits, §23-47-205.**Affiliates.**

Agents for affiliates, §23-48-105.

Examinations, §23-46-504.

Loans to affiliates or insiders, §23-47-504.

Subsidiary trust companies.

Exclusion of certain accounts from substitution agreement, §23-47-804.

Substitution agreements, §23-47-803.

Trust powers, §23-47-710.

Agents.

Affiliates, §23-48-105.

Certificates of deposit, §§23-47-301 to 23-47-309. See within this heading, "Certificates of deposit."

Obligation to inquire into limitations on powers, §23-48-104.

Out-of-state banks.

Registered agents, §23-48-1004.

Change of agent, §23-48-1005.

Resignation, §23-48-1006.

Application for incorporation, §23-48-301.

Investigations, §23-48-304.

Arkansas banking code of 1997.

Short title, §23-45-101.

Arkansas business corporation act.

Applicability, §23-48-326.

Articles of incorporation.

Affidavit of expenses, §23-48-303.

Amendment to charter, §23-48-307.

Filing, §23-48-308.

Application for incorporation, §23-48-301.

Certificate of incorporation, §23-48-305.

Contents of application, §23-48-301.

Investigation of new charter applications, §23-48-304.

Organizational expenses.

Affidavits, §23-48-303.

BANKS —Cont'd**Articles of incorporation —Cont'd**

Relocation of place of business,
§23-48-306.

Assets.

Bank holding companies.

Limitations on acquisition,
§23-48-406.

Sale of assets.

Dissolution and liquidation,
§23-49-108.

Authorized entities, §23-45-104.**Automatic teller machines,**

§§23-48-801 to 23-48-810.

Attendants for terminals, §23-48-807.

Confidentiality of account information,
§23-48-808.

Definitions, §23-48-801.

Fees.

Shared terminals, §23-48-810.

Interconnected terminals, §23-48-806.

Location, §23-48-802.

Notice of establishment, §23-48-803.

Out-of-state banks, §23-48-804.

Point-of-sale terminals excluded,
§23-48-805.

Powers of banks.

Confirmed powers of national
banks, §23-48-809.

Sharing of terminals, §23-48-810.

Verification of transactions,
§23-48-807.

Banker's banks, §23-48-325.**Bank holding companies, §§23-48-401 to 23-48-406.**

Administration of subchapter,
§23-48-404.

Applicability of subchapter,
§23-48-402.

Assets.

Limitations on acquisition,
§23-48-406.

Definitions, §23-48-401.

Merger into state bank, §23-48-509.

Penalties for violations, §23-48-403.

Stock.

Limitations on acquisitions of bank
stock or assets, §23-48-406.

Subsidiaries.

Limitations of ownership and
control, §23-48-405.

Banking board, §§23-46-301 to 23-46-305.

Appeals.

Final decisions, §23-46-407.

Applicability of provisions, §23-46-401.

Applications.

Consideration, §23-46-305.

Fees, §23-46-404.

BANKS —Cont'd**Banking board —Cont'd**

Applications —Cont'd

Rules and regulations, §23-46-404.

Composition, §23-46-301.

Confidentiality of information,
§23-46-101.

Creation, §23-46-301.

Filings with commissioner.

Effect, §23-46-304.

Hearings, §23-46-406.

Final decisions, §23-46-407.

Investigations, §23-46-405.

Meetings, §23-46-402.

Notice.

Applications file, §23-46-403.

Hearings, §23-46-405.

Meetings, §23-46-402.

Powers, §23-46-304.

Proceedings before, §§23-46-401 to
23-46-407.

Special members, §23-46-302.

Studies of state statutes, §23-46-303.

Bank service companies, §23-47-603.**Bonds, surety.**

Adverse claims to deposits, §23-47-205.

Bank department staff, §23-46-208.

Exemption from posting bond in
certain transactions, §23-48-106.

Subsidiary trust companies.

Bond to secure performance,
§23-47-806.

Branches, §§23-48-701 to 23-48-705.

Definitions, §23-48-701.

Establishment, §23-48-702.

Filing fee, §23-48-703.

Full service branches.

Application to establish, §23-48-703.

Establishment, §23-48-702.

Procedure, §23-48-703.

Notice of termination, §23-48-705.

Grandfather clause, §23-48-704.

Limited purchase offices.

Establishment, §23-48-702.

Pre-existing facilities, §23-48-704.

Relocation, §23-48-702.

Sale or purchase of individual branch.

Failed institutions, §23-48-511.

Termination.

Notice, §23-48-705.

Bribery, §23-50-106.

Acceptance of bribes, §23-50-108.

Buildings.

Bank premises.

Acquisition, §23-47-103.

Capital.

Impaired capital, §23-48-312.

BANKS —Cont'd**Capital —Cont'd**

Minimum capital requirements,
§23-48-310.

Capital development companies,
§23-47-604.**Capital funds.**

Organizational expenses cannot be
paid from, §23-48-302.

Capital notes, §23-48-315.**Casualty insurance.**

Mortgage loans.

Replacement cost coverage only,
§23-47-510.

CBCT's, §§23-48-801 to 23-48-810. See
within this heading, "Automatic
teller machines."**Certificate of incorporation,**
§23-48-305.

Issuance under new law, §23-45-104.

Certificates of deposit.

Agents.

Definitions, §23-47-301.

Designation of agent, §23-47-304.

Discharge of bank from claims,
§23-47-307.

Effect on other laws, §23-47-309.

Forms, §23-47-303.

Payments to agent, §23-47-305.

Discharge of bank, §23-47-307.

Payments to minors, §23-47-306.

Scope, §23-47-302.

Setoffs, §23-47-308.

Termination of agency, §23-47-304.

**Certification of check with
insufficient funds,** §23-50-110.**Charters.**

Amendments, §23-48-307.

Filing, §23-48-308.

Application for incorporation,
§23-48-301.

Existing financial institutions.

Effect of 1997 law, §23-45-103.

Failed institutions.

New charter to protect depositors,
§23-48-511.

Forfeiture, §23-50-102.

Investigations.

Applications, §23-48-304.

Organizational expenses, §23-48-302.

Affidavits, §23-48-303.

Promoter's fees prohibited, §23-48-303.

Checks.

Deposits.

Settlement of checks at par,
§23-47-206.

Insufficient funds.

Certification of check with
insufficient funds, §23-50-110.

BANKS —Cont'd**Checks —Cont'd**

Sale of checks act.

See CHECKS.

Chief executive officer.

Changes.

Report to commissioner, §23-46-512.

Loans.

Liability for illegal loans,
§23-47-505.

Small town banks.

Purchase or construction of
dwelling, §23-47-101.

Collateral.

Power to hold and sell, §23-47-507.

Commissioner.

Building and loan associations,
§§23-38-102, 23-38-208, 23-38-302.

Industrial loan institutions.

State bank commissioner.

See INDUSTRIAL LOAN
INSTITUTIONS.

Reports, §23-46-210.

**Community development
corporations,** §23-47-605.**Compensating tax.**

Applicability, §23-48-101.

Confidentiality of information.

Automatic teller machines, §23-48-808.

Bank department and banking board
records, §23-46-101.

Construction and interpretation.

Headings and captions, §23-45-105.

Rules of construction, §23-45-106.

Contracts.

Dissolution and liquidation.

Rejection of executory contracts,
§23-49-112.

Control.

Changes in control, §23-48-317.

Conversions.

Continuation of corporate entity,
§23-48-507.

Definitions, §23-48-501.

Dissenting stockholders, §23-48-506.

Names.

Use of old name, §23-48-507.

National bank into state bank,
§23-48-504.

National savings and loan association
into state bank, §23-48-504.

Resulting banks.

Time for conformity with state law,
§23-48-508.

State bank into national bank,
§23-48-502.

Trust powers.

No authority to exercise, §23-48-512.

BANKS —Cont'd**Corporations.**

Applicability of business corporation act, §23-48-326.

Costs.

Organizational expenses, §23-48-302.

Plans of exchange.

Appraiser's expenses, §23-48-603.

Safe deposit boxes.

Nonpayment of rent, §23-47-906.

Criminal law and procedure.

Acceptance of bribes, §23-50-108.

Bank holding company violations, §23-48-403.

Bribery, §23-50-106.

Certification of check with insufficient funds, §23-50-110.

Circulation of false rumors, §23-50-104.

Embezzlement or misuse of funds, §23-50-105.

Examiners.

Disclosure or falsification of information, §23-50-109.

False reports by commissioners or examiners, §23-50-108.

Falsification of records, §§23-50-106, 23-50-107.

Misleading use of name or title, §23-50-103.

Runs on banks.

Causing, §23-50-104.

Trust funds.

Loans of trust funds to officers and employees, §23-47-707.

Deferred income investment accounts, §23-47-208.**Definitions, §23-45-102.**

Checks, §23-41-102.

Mergers, conversions or other corporate actions, §23-48-501.

Department, §§23-46-201 to 23-46-211.

Bonds, surety.

Staff, §23-46-208.

Commissioner.

Appointment and removal, §23-46-204.

Immunity from liability, §23-46-206.

Powers and duties, §23-46-205.

Proceedings before, §§23-46-401 to 23-46-407.

Trust powers, §23-47-701.

Confidentiality of information, §23-46-101.

Conflicts of interest.

Staff, §23-46-207.

Creation, §23-46-201.

BANKS —Cont'd**Department —Cont'd**

Disposition of fees and revenues, §23-46-209.

Dissolution and liquidation.

Possession by department, §23-49-102.

Injunction against commissioner, §23-49-103.

Notice of possession, §23-49-105.

Termination, §23-49-104.

Employee bonds, §23-46-208.

Offices, §23-46-202.

Records, §23-46-209.

Retention, §23-46-211.

Reports.

Commissioner's reports, §23-46-210.

Monthly financial reports, §23-46-209.

Seal, §23-46-203.

Staff, §23-46-206.

Conflicts of interest, §23-46-207.

Employee bonds, §23-46-208.

Deposits, §§23-47-201 to 23-47-208.

Adverse claims to deposits, §23-47-205.

Checks.

Settlement of checks at par, §23-47-206.

Deferred income investment accounts, §23-47-208.

Minors.

Deposits by minors, §23-47-202.

Multiple-party deposits, §23-47-204.

Notice of rules, §23-47-201.

Overdrafts.

Payments, §23-47-207.

Rules governing.

Notice of rules, §23-47-201.

Securing deposits, §23-47-203.

Subsidiary trust companies, §23-47-805.

Totten trusts, §23-47-204.

Directors.**Changes.**

Report to commissioner, §23-46-512.

Loans.

Liability for illegal loans, §23-47-505.

Requirements, §23-48-322.

Standards of conduct, §23-48-322.

Dissolution and liquidation,

§§23-49-101 to 23-49-120.

Articles of dissolution, §23-49-117.

Execution and filing, §23-49-118.

Certificate of dissolution, §23-49-118.

Claims.

Presentation and notice, §23-49-109.

BANKS —Cont'd**Dissolution and liquidation —Cont'd**

Contracts.

Rejection of executory contracts,
§23-49-112.

Definitions, §23-49-101.

Federal deposit insurance agency.

Subrogation to rights of depositors,
§23-49-113.

Injunction against commissioner,
§23-49-103.

Leases.

Rejection of leases, §23-49-112.

Payment of claims, §23-49-111.

Possession by department, §23-49-102.

Injunction against commissioner,
§23-49-103.

Notice of possession, §23-49-105.

Termination, §23-49-104.

Voluntary placement, §23-49-120.

Presentation of claims.

Late claims, §23-49-110.

Receiver.

Actions for enforcement of rights,
§23-49-116.

Appointment, §23-49-106.

Powers, §23-49-107.

Safe deposit boxes.

Notice of safekeeping, §23-49-115.

Sale of assets, §23-49-108.

Statute of limitation on claims,
§23-49-109.

Successors to fiduciaries, §23-49-114.

Voluntary liquidation, §23-49-119.

Dividends.

Capital stock, §23-48-311.

Payment, §23-48-203.

Embezzlement, §23-50-105.**Examinations, §§23-46-503 to 23-46-509.**

Affiliates, §23-46-504.

Fees, §23-46-509.

Failure to pay, §23-46-510.

Information sharing with state or
federal agencies, §23-46-507.

Interstate mergers and branching,
§23-48-907.

Noncooperation with examiners,
§23-46-508.

Procedure, §23-46-506.

Reports, §23-46-506.

Special examinations.

Noncompliance with banking laws,
§23-46-505.

Timing, §23-46-503.

Violation of banking laws.

Special examinations, §23-46-505.

BANKS —Cont'd**Examiners.**

Disclosure or falsification of
information, §23-50-109.

Existing financial institutions.

Effect of 1997 law, §23-45-103.

Failed institutions.

New charter of branch facility.

Special grant authority, §23-48-511.

Sale or purchase of individual
branches, §23-48-511.

Trust accounts.

Priority of liens, §23-47-705.

Falsification of records, §§23-50-106, 23-50-107.**Federal deposit insurance agency.**

Dissolution and liquidation.

Subrogation to rights of depositors,
§23-49-113.

Federal reserve system.

Membership, §23-48-201.

Fees.

Application to establish branches.

Filing fee, §23-48-703.

Automatic teller machines.

Shared terminals, §23-48-810.

Banking board.

Applications, §23-46-404.

Examinations, §23-46-509.

Failure to pay, §23-46-510.

Interstate mergers and branching.

Collection and dispersal, §23-48-907.

Filing fee, §23-48-905.

Organization and incorporation.

Promoter's fees prohibited,
§23-48-303.

Felonies.

Bribery, §23-50-106.

Acceptance of bribes, §23-50-108.

Embezzlement or misuse of funds,
§23-50-105.

Examiners.

Disclosure or falsification of
information, §23-50-109.

False reports by commissioners or
examiners, §23-50-108.

Falsification of records, §23-50-106.

Misleading use of name or title,
§23-50-103.

Trust accounts.

Loans of trust funds to officers and
employees, §23-47-707.

Fiduciaries.

Dissolution and liquidation.

Successors to fiduciaries, §23-49-114.

Financial institutions generally.

See FINANCIAL INSTITUTIONS.

BANKS —Cont'd**Fines.**

- Bank holding companies.
- Violations of subchapter, §23-48-403.
- Embezzlement or misuse of funds, §23-50-105.
- Misleading use of name or title, §23-50-103.

Forms.

- Certificates of deposit.
- Agency designation, §23-47-303.

Funds.

- Organizational expense fund, §23-48-302.

Gross receipts tax.

- Applicability, §23-48-101.

Hearings.

- Banking board, §23-46-406.
- Final decisions, §23-46-407.
- Notice of hearings, §23-46-405.
- Revocation of trust powers, §23-47-709.

Holidays, §23-48-103.**Industrial loan institutions.**

- General provisions, §§23-36-101 to 23-36-117.
- See INDUSTRIAL LOAN INSTITUTIONS.
- State bank commissioner.
- See INDUSTRIAL LOAN INSTITUTIONS.

Interstate mergers and branching,

- §§23-48-901 to 23-48-911.
- Acquisition of an interstate branches, §23-48-904.
- Additional branches, §23-48-906.
- Applicability.
- Severability of provisions, §23-48-911.
- Applications, §23-48-902.
- Authority of state banks, §23-48-902.
- Authority to conduct transactions, §23-48-903.
- Authorized activities, §23-48-906.
- Commissioner.
- Enforcement, §23-48-908.
- Regulations, §23-48-909.
- Cooperative agreements, §23-48-907.
- Definitions, §23-48-901.
- De novo interstate branches, §23-48-904.
- Enforcement, §23-48-908.
- Examinations, §23-48-907.
- Fees.
- Collection and dispersal, §23-48-907.
- Filing, §23-48-905.
- Notice of change of control.
- Out-of-state banks, §23-48-910.
- Notice of proposed merger, §23-48-905.

BANKS —Cont'd**Interstate mergers and branching****—Cont'd**

- Oversight, §23-48-907.
- Permitted transactions, §23-48-903.
- Powers, §23-48-906.
- Regulations, §23-48-909.
- Reports, §23-48-907.
- Requirements, §23-48-902.
- Severability of provisions, §23-48-911.

Investigations.

- Applications for incorporation, §23-48-304.
- Banking board, §23-46-405.

Investments.

- Powers and limitations, §23-47-401.
- Trust accounts.
- Separate accounts required, §23-47-705.

Joint accounts.

- Multiple-party deposits, §23-47-204.

Leases.

- Dissolution and liquidation.
- Rejection of leases, §23-49-112.

Loans, §§23-47-501 to 23-47-510.

- Affiliates.
- Loans to affiliates or insiders, §23-47-504.
- Collateral.
- Power to hold and sell, §23-47-507.
- Debt collection.
- Disposition of real estate acquired through debt collections, §23-47-508.
- Exceptions, §23-47-502.
- Illegal loans.
- Liability of officer or director, §23-47-505.
- Inclusions, §23-47-502.
- Insiders, §23-47-504.
- Limits, §23-47-501.
- Inclusions and exceptions, §23-47-502.
- Maximum, §23-47-501.
- Minors, §23-47-509.
- Mortgage loans.
- Casualty insurance, §23-47-510.
- Sale of certain mortgage loans, §23-47-506.
- Stock.
- Loans involving bank's own stock, §23-47-503.
- Trust funds.
- Loans to officers and employees prohibited, §23-47-707.

Meetings.

- Shareholders, §23-48-318.
- Notice of annual meeting, §23-48-319.

BANKS —Cont'd**Meetings —Cont'd**

Shareholders —Cont'd

Quorum, §23-48-320.

Special stockholder meetings,
§23-48-318.**Mergers.**Bank holding company into state
bank, §23-48-509.

Bank into state bank, §23-48-503.

Continuation of corporate entity,
§23-48-507.

Definitions, §23-48-501.

Dissenting stockholders, §23-48-506.

Names.

Use of old name, §23-48-507.

Resulting banks.Time for conformity with state law,
§23-48-508.Savings and loan association into state
bank, §23-48-503.State bank into national bank,
§23-48-502.State bank into out-of-state
state-chartered bank, §23-48-505.**Trust powers.**

No authority to exercise, §23-48-512.

**Minimum capital requirements,
§23-48-310.****Minors.****Certificates of deposit.**

Payments to minors, §23-47-306.

Deposits by minors, §23-47-202.

Loans to minors, §23-47-509.

Safe deposit boxes.

Leases to minors, §23-47-903.

Misdemeanors.Bank holding company violations,
§23-48-403.Certification of check with insufficient
funds, §23-50-110.Circulation of false rumors,
§23-50-104.

Falsification of records, §23-50-107.

Runs on banks.

Causing, §23-50-104.

Misuse of funds.Officers, directors or employees,
§23-50-105.**Mortgages and deeds of trust.****Casualty insurance.**Replacement cost coverage only,
§23-47-510.Mortgage bankers, brokers and
servicers.Licensing and regulation generally,
§§23-39-501 to 23-39-516.See MORTGAGE BANKERS,
BROKERS AND SERVICERS.**BANKS —Cont'd****Mortgages and deeds of trust
—Cont'd**Sale of certain mortgage loans,
§23-47-506.**Multiple parties.**

Deposits, §23-47-204.

Safe deposit box leases, §23-47-902.

Names.Mergers, conversions or other
corporate actions.

Use of old name, §23-48-507.

Misleading use of name or title,
§23-50-103.Reservation and registration of names,
§23-48-309.Restrictions on use of names,
§23-32-209.**Notice.**

Adverse claims to deposits, §23-47-205.

Automatic teller machines.Establishment of terminal,
§23-48-803.**Branches.**Termination of full service branches,
§23-48-705.**Deposits.**

Notice of rules, §23-47-201.

Dissolution and liquidation.

Notice of claims, §23-49-109.

Notice of safekeeping of safe deposit
boxes, §23-49-115.Possession by department,
§§23-49-102, 23-49-105.Failure to make report or pay fees,
§23-46-510.**Interstate mergers and branching.**Change of control of out-of-state
banks, §23-48-910.Notice of proposed merger,
§23-48-905.**Plans of exchange.**

Meeting to consider, §23-48-602.

Revocation of trust powers,
§23-47-709.**Shareholder meetings.**Notice of annual meeting,
§23-48-319.Notice of special meetings,
§23-48-318.

Stockholder meetings, §23-48-318.

Officers, §23-48-323.

Acknowledgments, §23-48-324.

Notaries public, §23-48-324.

Trust powers.

Unauthorized loans, §23-47-707.

BANKS —Cont'd
Offices.

- Out-of-state banks.
- Registered offices, §23-48-1004.
- Change of office, §23-48-1005.

Operating subsidiaries, §23-47-601.

Organizational expense fund,
 §23-48-302.

Organization and management,
 §§23-48-301 to 23-48-326.

Out-of-state banks.

- Amended certificate of authority,
 §23-48-1002.
- Appeal from revocation of certificate of
 authority, §23-48-1011.
- Automatic teller machines, §23-48-804.
- Certificate of authority.
 Amendment, §23-48-1002.
- Application, §23-48-1001.
- Effect, §23-48-1003.
- Revocation, §23-48-1009.
 Appeal, §23-48-1011.
- Effect, §23-48-1010.
- Certificate of existence, §23-48-1001.
- Certificate of withdrawal, §23-48-1008.
- Registered agent, §23-48-1004.
 Change of agent, §23-48-1005.
- Resignation, §23-48-1006.
- Registered office, §23-48-1004.
 Change of office, §23-48-1005.
- Registration, §§23-48-1001 to
 23-48-1011.
- Revocation of authority, §23-48-1009.
 Appeal, §23-48-1011.
- Effect, §23-48-1010.
- Rights and privileges, §23-48-1003.
- Service of process, §23-48-1007.
- State-chartered banks.
 Merger of state bank into,
 §23-48-505.
- Withdrawal, §23-48-1008.

Overdrafts.

- Payment, §23-47-207.

Personal liability.

- Payment of overdrafts, §23-47-207.

Plans of exchange, §§23-48-601 to
 23-48-605.

- Abandonment, §23-48-602.
- Adoption procedure, §23-48-602.
- Appraiser.
 Cost and expenses, §23-48-603.
- Authority to adopt, §23-48-601.
- Commissioner's approval required,
 §23-48-601.
- Contents, §23-48-601.
- Creditors and depositors.
 Mutual nonliability, §23-48-605.

BANKS —Cont'd

Plans of exchange —Cont'd

- Demand for payment.
 Dissenting shareholders, §23-48-603.
- Dissent, §§23-48-603, 23-48-604.
- Effect of exchange, §23-48-604.

Powers.

- Acquisition of bank premises,
 §23-47-103.
- Effect of 1997 law, §23-45-103.
- Generally, §23-47-101.
- Investment powers and limitations,
 §23-47-401.

Loans.

- Power to hold and sell collateral,
 §23-47-507.

Real estate salesmen or brokers.

- Prohibition, §23-47-104.

Stock.

- Acquisition and disposition of own
 stock, §23-47-102.
- Trust powers, §§23-47-701 to
 23-47-710. See within this
 heading, "Trust powers."

Powers of attorney.

- Filing, §23-48-602.
- Obligation to inquire into limitations
 upon powers, §23-48-104.
- Separation of entities maintained,
 §23-48-605.

Premises.

- Acquisition of bank premises,
 §23-47-103.
- Relocation of place of business,
 §23-48-306.

Prohibited operations.

- Loans of trust funds to officers and
 employees, §23-47-707.
- Trust powers, §23-47-705.

Prosecution of violations, §23-50-101.

Real estate brokers and salesmen.

- Prohibition, §23-47-104.

Real estate subsidiaries, §23-47-602.

Records.

- Bank department records, §23-46-209.
 Confidentiality, §23-46-101.
- Retention, §23-46-211.
- Confidentiality, §23-46-101.
- Falsification, §§23-50-106, 23-50-107.
- Retention, §23-46-511.
- Trust powers.
 Separate books and records,
 §23-47-704.

Relocation.

- Branches, §23-48-702.
- Place of business, §23-48-306.

Reorganization through plan of
exchange, §§23-48-601 to
 23-48-605.

BANKS —Cont'd**Reports.**

- Bank department.
 - Monthly financial reports, §23-46-209.
- Call for reports, §23-46-501.
- Changes in chief executive officer or director, §23-46-512.
- Examinations, §23-46-506.
- Examiners.
 - Falsification of report, §§23-50-108, 23-50-109.
- Failure to make, §23-46-510.
- False reports by commissioner or examiner, §§23-50-108, 23-50-109.
- Interstate mergers and branching, §23-48-907.
- Statements on call, §23-46-502.

Reserves.

- Membership in federal reserve system, §23-48-201.
- Requirements, §23-48-202.

Run on banks.

- Causing, §23-50-104.

Safe deposit boxes, §§23-47-901 to 23-47-906.

- Adverse claims to contents, §23-47-905.
- Dissolution and liquidation.
 - Notice of safekeeping, §23-49-115.
- Liability for losses, §23-47-901.
- Limiting right of access.
 - Compliance with security procedures, §23-47-904.
- Minors, §23-47-903.
- Multiple-party leases, §23-47-902.
- Nonpayment of rent, §23-47-906.
- Security procedures.
 - Compliance required, §23-47-904.

Securing deposits, §23-47-203.**Service of process.**

- Out-of-state banks, §23-48-1007.

Setoffs.

- Certificates of deposit.
 - Agency accounts, §23-47-308.

Shareholders.

- Liability, §23-48-312.
- Meetings, §23-48-318.
 - Notice of annual meeting, §23-48-319.
 - Notice of special meetings, §23-48-318.
 - Quorum, §23-48-320.
 - Voting, §23-48-320.
- Mergers, conversions or other corporate actions.
 - Dissenting stockholders, §23-48-506.

BANKS —Cont'd**Shareholders —Cont'd**

- Plans of exchange.
 - Dissenting shareholders, §23-48-603.
 - Preemptive rights, §23-48-314.

Short title, §23-45-101.**Small business investment companies, §23-47-606.****Statements on call, §23-46-502.****Statutes.**

- Headings and captions, §23-45-105.

Stock.

- Acquisition and disposition of own stock, §23-47-102.
- Assessments on stock, §23-48-312.
- Bank holding companies.
 - Limitations on acquisitions of bank stock or assets, §23-48-406.
- Capital notes.
 - Issuance and sale, §23-48-315.
- Capital stock.
 - Increase or decrease, §23-48-311.
- Classes, §23-48-313.
- Fractional shares, §23-48-313.
- Liability of shareholders, §23-48-312.
- Loans.

- Loans involving bank's own stock, §23-47-503.

- Preemptive rights of stockholders, §23-48-314.

- Scrip, §23-48-313.

- Transfers, §23-48-316.

- Closing of transfer books, §23-48-321.

- Record date, §23-48-321.

Subsidiaries, §§23-47-601 to 23-47-608.

- Acquisition of banks authorized to do foreign banking, §23-47-607.

Bank holding companies.

- Limitations on ownership and control, §23-48-405.

Bank service companies, §23-47-603.**Capital development companies, §23-47-604.****Community development corporations, §23-47-605.****Financial subsidiaries.**

- Authority to engage in activities through, §23-47-608.

Operating subsidiaries, §23-47-601.**Real estate subsidiaries, §23-47-602.****Small business investment companies, §23-47-606.**

- Trust companies, §§23-47-801 to 23-47-807. See within this heading, "Subsidiary trust companies."

BANKS —Cont'd**Subsidiary trust companies,**

§§23-47-801 to 23-47-807.

Affiliates.

Exclusion of certain accounts from substitution agreement, §23-47-804.

Substitution agreements, §23-47-803.

Bond to secure performance, §23-47-806.

Creation, §23-47-802.

Definitions, §23-47-801.

Deposits, §23-47-805.

Liability for acts and omissions, §23-47-806.

Qualification as successor fiduciary, §23-47-807.

Surplus funds.

Organizational expenses cannot be paid from, §23-48-302.

Tenancies in common.

Multiple-party accounts, §23-47-204.

Tenants by the entireties.

Multiple-party accounts, §23-47-204.

Terms of officers, §23-48-323.**Totten trusts, §23-47-204.****Transfers.**

Changes in control, §23-48-317.

Stock, §23-48-316.

Closing of transfer books, §23-48-321.

Trust companies.

Generally, §§23-51-101 to 23-51-211.

See TRUST COMPANIES.

Trust companies no longer subject to banking laws, §23-48-102.

Trust powers, §23-47-701 to 23-47-710.**Affidavits.**

Execution, §23-47-706.

Affiliates, §23-47-710.**Applications.**

Factors to be considered, §23-47-702.

Authority, §23-47-703.

Authorization.

Surrender, §23-47-708.

Commissioner's authority, §23-47-701.

Conversions.

No authority to exercise, §23-48-512.

Factors in determining grant of power, §23-47-702.

Investments.

Separate accounts, §23-47-705.

Lawful exercise, §23-47-703.

Mergers.

No authority to exercise, §23-48-512.

Oath of trustee, §23-47-706.

BANKS —Cont'd**Trust powers —Cont'd**

Officers and employees.

Unauthorized loans, §23-47-707.

Prohibited operations, §23-47-705.

Loans of trust funds to officers and employees, §23-47-707.

Records.

Separate books and records, §23-47-704.

Revocation, §23-47-709.

Segregation of assets, §23-47-704.

Surrender of authorization, §23-47-708.

Termination.

Revocation, §23-47-709.

Surrender, §23-47-708.

Unauthorized activity, §23-45-104.**Violation of banking laws generally, §23-50-101 to 23-50-110.****BANK SERVICE COMPANIES,**

§23-47-603.

BELL AND WHISTLE ACT,

§23-12-410.

BILLS OF LADING.**Motor carriers, §23-13-252.****Railroads.**

Charge specified in bill of lading controlling, §23-4-613.

Delivery of goods on payment of charges shown in bill of lading, §23-4-613.

Liability for refusal to deliver, §23-4-613.

BOARDS AND COMMISSIONS.**Amusement ride safety advisory board, §23-89-518.****Greyhound racing.**

Racing commission.

See GREYHOUND RACING.

Horse racing.

Racing commission.

See HORSE RACING.

Public utilities.

Public service commission, §§23-2-101 to 23-2-112.

See PUBLIC SERVICE COMMISSION.

Racing commission.

Greyhound racing.

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

BOND ISSUES.**Farm credit act of 1971.**

Authorized investments for financial institutions, §23-32-201.

BOND ISSUES —Cont'd**Insurance.**

Investments.

Corporate bonds and debentures,
§23-63-814.

Improvement district obligations,
§23-63-810.

Local industrial development bonds,
§23-63-811.

Municipal or county utilities,
§23-63-809.

Public obligations, §23-63-808.

United States government
obligations, §23-63-806.

BONDS, SURETY.**Attorneys at law.**

Insurance.

Reciprocal insurers, §23-70-110.

Aviation.

Air commerce.

Carriers, §23-14-112.

Banks.

Adverse claims to deposits, §23-47-205.

Bank department staff, §23-46-208.

Exemption from posting bond in
certain transactions, §23-48-106.

Subsidiary trust companies.

Bond to secure performance,
§23-47-806.

Carriers.

See CARRIERS.

Checks.

Sale of checks act, §23-41-114.

Deposit of securities in lieu of bond,
§23-41-115.

Common carriers.

Bonds, surety of carrier employees,
§§23-16-201 to 23-16-207.

See CARRIERS.

Estoppel.

Surety insurers.

Denying corporate power to be
surety, §23-63-1004.

Financial institutions.

Exemptions, §§23-32-301 to 23-32-305.

Applicability of other laws,
§23-32-303.

Construction and interpretation,
§23-32-304.

Purpose of act, §23-32-302.

Title of act, §23-32-301.

Transactions exempt from posting
bond, §23-32-305.

Forcible entry and detainer.

Exemption for banks, §23-48-106.

Foreclosures.

Exemption from banks, §23-48-106.

BONDS, SURETY —Cont'd**Fraternal benefit societies.**

Articles of incorporation.

Applicants for incorporation,
§23-74-301.

Garnishment.

Exemption for banks, §23-48-106.

Greyhound racing.

Franchise holders, §23-111-514.

Health maintenance organizations.

Directors, officers or partners,
§23-76-111.

Horse racing.

Franchise holders, §23-110-414.

Racing commission.

Secretary, §23-110-202.

Insurance.

Brokers.

Licenses, §23-64-208.

Burial associations.

Board.

Executive secretary, §23-78-107.

Commissioner, §23-61-102.

Domestic stock and mutual insurers.

Formation of nonlife mutual insurer,
§23-69-113.

Managing general agents, §23-64-403.

Mutual assessment life and disability
insurers, §23-72-105.

Reciprocal insurers.

Attorneys at law, §23-70-110.

Action on bond, §23-70-110.

Deposit in lieu of bond,
§23-70-110.

Risk management.

Emergency conditions, §23-61-606.

Procurement of insurance or surety
bonding, §23-61-606.

Surety insurers, §§23-63-1001 to
23-63-1004. See within this
heading, "Surety insurers."

**Mortgage bankers, brokers and
servicers, §23-39-505.****Motor carriers.**

Bonds, surety of carrier employees,
§§23-16-201 to 23-16-207.

See CARRIERS.

Forfeited bonds.

Disposition, §23-13-264.

Protection of public, §23-13-227.

Motor vehicles.

Dealers, distributors, manufacturers
and salespersons.

Licenses, §23-112-302.

Used motor vehicle buyers
protection, §23-112-607.

BONDS, SURETY —Cont'd**Professional employer**

organizations, §23-92-408.

Employer service assurance
organizations, §23-92-415.

Public service commission, §23-2-101.**Railroad police**, §23-12-702.**Railroads.**

Bonds, surety of carrier employees,
§§23-16-201 to 23-16-207.

See CARRIERS.

Savings and loan associations.

Brokers.

Licenses, §23-37-603.

Directors, officers and employees,
§23-37-314.

Savings accounts as security for bonds,
§23-37-511.

Securities regulation.

Agents.

Registration, §23-42-305.

Broker-dealers.

Registration, §23-42-305.

Investment advisors.

Registration, §23-42-305.

Surety insurers.

Estoppel.

Denying corporate power to be
surety, §23-63-1004.

Expenses.

Allowance of bond expense,
§23-63-1001.

Individual rights.

Insurer's rights same as individual,
§23-63-1003.

Sole surety on court, judicial and other
bonds, §23-63-1001.

Sole surety on official bonds,
§23-63-1002.

Trust companies.

Directors, officers and employees,
§23-51-148.

Subsidiary trust companies.

Bond to secure performance,
§23-47-806.

BOOKS.**Records generally.**

See RECORDS.

BORROWING MONEY.**Loans generally.**

See LOANS.

BOUNDARIES.**Savings and loan associations.**

Foreign associations.

Operation in city on state line,
§23-37-601.

BREAST CANCER.**Health insurance.**

Mammography, §23-79-140.

Mastectomies.

Required coverage, §23-99-405.

Mammography.

Definitions, §23-79-140.

Insurance coverage, §23-79-140.

BRIBERY.**Banks.**

Acceptance of bribes, §23-50-108.

BROKER-DEALERS.**Securities regulation.**

See SECURITIES REGULATIONS.

BROKERS.**Insurance.**

See INSURANCE.

Mortgage bankers, brokers and servicers.

See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

Motor vehicles.

Dealers, distributors, etc.

Acting as broker unlawful,
§23-112-406.

BUCKET SHOPS.**Futures.**

See FUTURES.

BUILDING AND LOAN ASSOCIATIONS.**Accounts and accounting.**

False entry.

Penalty, §23-38-401.

Acknowledgments.

Members or employees may take,
§23-38-207.

Acting without authority.

Penalty, §23-38-401.

Advertising.

Publication of false advertisement or
report of financial condition.

Penalty, §23-38-402.

Aiding and abetting.

Penalty for aiding or abetting
violations, §23-38-401.

Assets.

Real property.

Valuation, §23-38-214.

Sale of all or portion of assets,
§23-38-218.

Bank commissioner.

Dividends.

Improper payment.

Order of bank commissioner to
suspend payment, §23-38-208.

BUILDING AND LOAN**ASSOCIATIONS —Cont'd****Bank commissioner —Cont'd**

Insolvency and illegal practices.

Notice by commissioner to restore solvency or discontinue practices, §23-38-302.

Report to governor.

Publication, §23-38-102.

Bylaws.

Directors.

Qualifications, §23-38-205.

Stock and stockholders.

Classes of shares, §23-38-201.

Capital development companies.

Investment in and loans to, §23-32-202.

Certificates of deposit.

Agency designations, §§23-32-501 to 23-32-507.

Circulation of false statements injurious to association.

Penalty, §23-38-404.

Definitions, §23-38-101.

Domestic associations, §23-38-101.

Foreign associations, §23-38-101.

Guaranty or permanent stock associations, §23-38-101.

Mutual building and loan associations, §23-38-101.

Directors.

Bylaws.

Qualifications, §23-38-205.

Qualifications, §23-38-205.

Dividends.

Bank commissioner.

Improper payment.

Order of bank commissioner to suspend payment, §23-38-208.

Declaration of dividend greater than earnings.

Liability, §23-38-209.

Improper payment.

Procedure, §23-38-208.

Domestic associations.

Defined, §23-38-101.

Embezzlement.

Penalty, §23-38-401.

Employees.

Acknowledgments.

Taking acknowledgments, §23-38-207.

Evidence.

Suppressing evidence.

Penalty, §23-38-403.

Expenses.

Restrictions, §23-38-216.

BUILDING AND LOAN**ASSOCIATIONS —Cont'd****False statements.**

Circulation of false statements injurious to association.

Penalty, §23-38-404.

Foreign associations.

Admission to transact business, §23-38-220.

Defined, §23-38-101.

Guaranty or permanent stock associations.

Defined, §23-38-101.

Investments.

Other classes of investments, §23-38-203.

Stock and stockholders.

Dayton or optional payment plan for maturing shares, §23-38-204.

Insolvency and illegal practices.

Bank commissioner.

Notice by commissioner to restore solvency or discontinue practices, §23-38-302.

Dissolution, §23-38-304.

Loans from reconstruction finance corporation.

Hypothecation of assets to secure, §23-38-305.

Notes.

Executed to evidence loan, §23-38-305.

Notice of application, §23-38-306.

Other instruments executed to procure loan, §23-38-305.

Renewal, §23-38-305.

Notice.

Commissioner to notify association to restore solvency and discontinue practices, §23-38-302.

Failure to comply.

Procedure, §23-38-303.

Receivers.

Appointment, §23-38-303.

Duties, §23-38-304.

Federal savings and loan insurance corporation acting as receiver, §23-37-706.

Loans from reconstruction finance corporation.

Application by receiver, §23-38-305.

Court approval, §23-38-306.

Investments.

Authorized investments, §23-38-210.

Guaranty or permanent stock associations, §23-38-203.

BUILDING AND LOAN ASSOCIATIONS —Cont'd

Investments —Cont'd

Real property, §23-38-213.

Liquidation.

Involuntary liquidation.

Loans repaid, §23-38-307.

Loans.

Repayment in voluntary or involuntary liquidation, §23-38-307.

Voluntary liquidation.

Loans repaid, §23-38-307.

Procedure, §23-38-301.

Loans.

Authority to borrow money, §23-38-215.

Conveyance of mortgaged property acts as transfer of shares securing loans, §23-38-212.

General provisions, §23-38-210.

Liquidation.

Repayment in voluntary or involuntary liquidation, §23-38-307.

Restrictions, §23-38-211.

Servicemen's Readjustment Act, §23-32-205.

Subscription for stock in corporation created by act of congress as condition of loan, §23-38-219.

Losses.

Liability of members.

Reduction of liability to members, §23-38-217.

Mortgages and deeds of trust.

Conveyance of mortgaged property acts as transfer of shares securing loan, §23-38-212.

Mutual building and loan associations.

Defined, §23-38-101.

Stock and stockholders.

Dayton or optional payment plan for maturing shares, §23-38-204.

Names.

Restrictions on use, §23-32-209.

Notes.

Authority to borrow money, §23-38-215.

Notice.

Insolvency and illegal practices.

Commissioner's notice, §23-38-302.

Loan from reconstruction finance corporation.

Court to approve, §23-38-306.

Noncompliance, §23-38-303.

BUILDING AND LOAN ASSOCIATIONS —Cont'd

Orders.

Stock and stockholders.

Dividends.

Improper payment.

Suspension of payment by bank commissioner, §23-38-208.

Penalties.

Acting without authority, §23-38-401.

Aiding and abetting violations, §23-38-401.

Circulation of false statements injurious to association, §23-38-404.

Embezzlement, §23-38-401.

False advertising.

Report of financial condition.

Publication, §23-38-402.

False entry, §23-38-401.

Reports.

Annual reports to bank commissioners, §23-38-102.

Permits.

Foreign associations.

Transacting business in state, §23-38-220.

Publication.

False advertisements or reports of financial condition.

Penalty, §23-38-402.

Reports by bank commissioner to governor, §23-38-102.

Real property.

Investments in real property, §23-38-213.

Valuation of real property owned as assets, §23-38-214.

Receivers.

Insolvency and illegal practices, §23-38-303.

Duties, §23-38-304.

Federal savings and loan insurance corporation acting as receiver, §23-37-706.

Loans from reconstruction finance corporation.

Authority of receiver to apply for, §23-38-305.

Hypothecation of assets to secure, §23-38-305.

Notes executed to evidence loan, §23-38-305.

Notice of application for loan, §23-38-306.

Other instruments executed to procure loan, §23-38-305.

Renewal, §23-38-305.

BUILDING AND LOAN ASSOCIATIONS —Cont'd

Reports.

- Annual reports to bank commissioners.
- Failure to make.
 - Penalty, §23-38-102.
- Bank commissioner to report to governor.
 - Publication, §23-38-102.
- Publication of false advertisement or report of financial condition.
 - Penalty, §23-38-402.

Restriction on expenses, §23-38-216.

Sales.

- Assets.
 - All or a portion of assets, §23-38-218.

Savings and loan associations.

- General provisions, §§23-37-101 to 23-37-706.

See SAVINGS AND LOAN ASSOCIATIONS.

Servicemen's Readjustment Act.

- Loans, §23-32-205.

Stock and stockholders.

- Bylaws.
 - Classes of shares, §23-38-201.
- Calling in shares, §23-38-202.
- Cancellation of shares, §23-38-202.
- Classes of shares, §23-38-201.
- Dayton or optional payment plan for maturing shares, §23-38-204.

Dividends.

- Greater than earnings.
 - Liability for declaration, §23-38-209.
- Improper payment.
 - Suspending payment.
 - Order of bank commissioner, §23-38-208.
 - Violation of order.
 - Liability, §23-38-208.

Elections, §23-38-206.

Guaranty or permanent stock associations.

- Dayton or optional payment plan for maturing shares, §23-38-204.

Mutual building and loan associations.

- Dayton or optional payment plan for maturing shares, §23-38-204.

Subscription for stock in corporation created by act of congress as condition of loan, §23-38-219.

Voting, §23-38-206.

Suppressing evidence, §23-38-403.

BUILDINGS.

Banks.

- Bank premises.
 - Acquisition, §23-47-103.

BUNGEE JUMPING.

Insurance for amusements,

- §§23-89-501 to 23-89-518.

See AMUSEMENTS.

BURDEN OF PROOF.

Check-cashers.

- Appeal from permit denial, §23-52-113.

Highways.

- State highway and transportation department.
 - Persons seeking to avoid compliance with act or orders, §23-2-417.

Public service commission.

- Person seeking to avoid compliance with act or orders, §23-2-417.

Railroads.

- Livestock.
 - Killing or injuring, §23-12-910.

BURIAL INSURANCE ASSOCIATIONS.

Agent's license.

- Fee, §23-78-113.
- Renewal, §23-78-113.

Applicability of provisions.

- Existing associations subject to chapter, §23-78-102.

Assessments, §23-78-116.

Authority of act, §23-78-103.

Board.

- Appointment of members, §23-78-105.
- Burial associations under control of board, §23-78-109.
- Chairman, §23-78-106.
- Composition, §23-78-105.
- Consumer representative, §23-78-106.
- Creation, §23-78-105.
- Duties, §23-78-108.
- Employees, §23-78-107.
- Executive secretary, §23-78-107.
- Bond, surety, §23-78-107.
- Expenses of members, §23-78-105.
- Legal counsel, §23-78-107.
- Meetings, §23-78-106.
- Oath of office, §23-78-105.
- Powers, §23-78-108.
- Burial associations under control of board, §23-78-109.
- Qualifications of members, §23-78-105.
- Quorum, §23-78-106.
- Removal of members, §23-78-105.
- Terms of members, §23-78-105.
- Vacancies, §23-78-105.

BURIAL INSURANCE**ASSOCIATIONS —Cont'd****Bonds, surety.****Board.**

Executive secretary, §23-78-107.

Books and records.

Failure to maintain, §23-78-119.

Inspection and audit, §23-78-117.

Bylaws, §23-78-115.**Certificates for benefits.**

Issuance, §23-78-112.

Certificates of authority.

Application, §23-78-110.

Issuance, §23-78-110.

Revocation, §23-78-124.

Appeals, §23-78-125.

Hearings, §23-78-124.

**Chapter exclusive authority,
§23-78-103.****Definitions, §23-78-101.****Disposition of collections, §23-78-122.****Disposition of fees and charges,
§23-78-123.****Existing associations subject to
chapter, §23-78-102.****False claims, promises or
representations of agent,
§23-78-114.****False entries, §23-78-118.****Fees, §23-78-111.**

Disposition, §23-78-123.

Hearings.

Decisions, §23-78-108.

Power to conduct, §23-78-108.

Revocation of certificates of authority,
§23-78-124.

Witnesses, §23-78-108.

Investments.

Collections, §23-78-122.

Membership dues, §23-78-116.**Oaths.****Board.**

Oath of office, §23-78-105.

Fees.

Oath at payment, §23-78-111.

Penalties.

Violations, §23-78-104.

Records.

Failure to maintain, §23-78-119.

Inspection and audit, §23-78-117.

Reports.

Semiannual reports, §23-78-120.

**Rules and regulations, §§23-78-115,
23-78-121.****Violations.**

Penalties, §23-78-104.

BURIALS.**Insurance.**

Associations, §§23-78-101 to 23-78-125.

See BURIAL INSURANCE
ASSOCIATIONS.**BUSINESS CORPORATIONS.****General provisions.**

See CORPORATIONS.

BUSINESS RECORDS.**General provisions.**

See RECORDS.

C**CABOOSES.****Railroads.**

See RAILROADS.

CANCER.**Breast cancer.****Mammography.**Coverage for mammogram screening
of occult breast cancer,
§23-79-140.

Definitions, §23-79-140.

Insurance.

Coverage, §23-79-140.

Required coverage, §23-99-405.

Definitions, §23-79-112.

Definitions.

Mammography, §23-79-140.

Health maintenance organizations.Mammogram screening of occult
breast cancer.

Coverage generally, §23-79-140.

**Hospital and medical service
corporations.**Mammogram screening of occult
breast cancer.

Coverage generally, §23-79-140.

Insurance.**Mammograms.**Coverage for mammogram screening
of occult breast cancer.

Generally, §23-79-140.

Definitions, §23-79-112.

Prescription medication.

Coverage, §23-79-147.

**CAPITAL DEVELOPMENT
COMPANIES.****Bank subsidiaries, §23-47-604.****Investments.**

Financial institutions, §23-32-202.

Loans.Financial institution investments,
§23-32-202.

CAPTIVE INSURANCE

COMPANIES, §§23-63-1601 to 23-63-1623.

Applicability of insurance code, §§23-63-1616, 23-63-1617.

Associations.

Participation prohibited, §23-63-1613.

Capital requirements, §23-63-1604.

Certificate of authority, §23-63-1623.

Conversions, §23-63-1619.

Definitions, §23-63-1601.

Examinations, §23-63-1608.

Exemption from insurance code, §§23-63-1616, 23-63-1617.

Guaranty or insolvency funds.

Participation prohibited, §23-63-1613.

Incorporation, §23-63-1606.

Investments, §23-63-1610.

Licenses.

Applications, §23-63-1602.

Capital requirements, §23-63-1604.

Surplus requirements, §23-63-1605.

Suspension or revocation, §23-63-1609.

Mergers, §23-63-1619.

Names.

Deceptively similar names, §23-63-1603.

Organization, §23-63-1606.

Pools.

Participation prohibited, §23-63-1613.

Premium tax, §23-63-1614.

Protected cell.

Availability of funds, §23-63-1618.

Defined, §23-63-1601.

Producer reinsurance protected cell requirements, §23-63-1622.

Rating organizations.

Not required to join, §23-63-1612.

Reinsurance, §23-63-1611.

Reports, §23-63-1607.

Rules and regulations, §23-63-1615.

Sponsored captive insurance companies.

Defined, §23-63-1601.

Participants, §23-63-1621.

Requirements as to sponsors, §23-63-1620.

Surplus requirements, §23-63-1605.

CARRIERS.**Appeals.**

Motor carriers.

Complaints against carriers.

Orders of state highway and transportation department, §23-13-308.

State highway and transportation department.

Orders of department, §23-2-425.

CARRIERS —Cont'd**Bonds, surety.**

Employees.

Bonds in violation of subchapter.

Void, §23-16-202.

Cancellation of bonds, §23-16-207.

Rejection of bond or undertaking, §23-16-206.

Residence.

Qualifications of sureties, §23-16-203.

Selection of sureties.

Employer not to select sureties, §23-16-204.

Term of bond or undertaking, §23-16-205.

Violations of provisions.

Penalties, §23-16-201.

Who may become sureties, §23-16-203.

Charges for use of another mode of transportation in addition to motor transportation.

Agreement with carrier to pay.

Penalty for violations, §23-10-109.

Void, §23-10-109.

Common carriers.

Motor carriers generally.

See MOTOR CARRIERS.

Definitions, §23-16-101.

Insurance.

Uninsured motorist liability insurance, §23-16-301.

Motor carriers.

See MOTOR CARRIERS.

Railroads.

See RAILROADS.

Fees.

Annual fees collected from carriers, §23-16-104.

Cost of operation.

Record, §23-16-106.

Cumulative effect of act, §23-16-102.

Definitions, §23-16-101.

Delinquency.

Penalty, §23-16-105.

Gross revenue.

Annual certified statement, §23-16-103.

Penalties.

Delinquency, §23-16-105.

Receipt of fees, §23-16-105.

Statement of fees due from carriers, §23-16-105.

Subchapter cumulative, §23-16-102.

Freight.

Railroads.

See RAILROADS.

CARRIERS —Cont'd**Insurance.**

- Uninsured motorist liability insurance.
- Amount, §23-16-302.
- Definitions, §23-16-301.
- Insolvency protection.
- Applicability, §23-16-303.
- Required, §23-16-302.
- Subrogation, §23-16-304.

Interstate commerce.

- Rates, charges and classifications.
- Authority of commission, §23-4-102.

Investigations.

- Rates and charges.
- Change in rates.
- Investigation by commission, §23-4-622.

Mandamus.

- Rates and charges.
- Change in rates.
- Petition, §23-4-633.

Misdemeanors.

- Agreements with carrier to pay charge for use of another mode of transportation in addition to motor transportation, §23-10-109.
- Bonds, surety.
- Employees.
- Violations of provisions, §23-16-201.

Motor carriers.

See MOTOR CARRIERS.

Railroads.

See RAILROADS.

Motor carriers, §§23-13-101 to 23-13-506.

See MOTOR CARRIERS.

Notice.

- Rates and charges.
- Change in rates, §23-4-620.
- Proposed changes, §23-4-635.

Penalties.

- Agreements with carrier to pay charge for use of another mode of transportation in addition to motor transportation, §23-10-109.
- Bonds, surety.
- Employees.
- Violations of provisions, §23-16-201.
- Fees.
- Delinquency, §23-16-105.
- Motor carriers.
- See MOTOR CARRIERS.
- Railroads.
- See RAILROADS.

Pipelines.

- Pipeline companies deemed common carriers, §23-15-101.

CARRIERS —Cont'd**Railroads.**

See RAILROADS.

Rates and charges.

- Change in rates.
- Apportionment of increase, §23-4-626.
- Authority of commission to fix rates, §23-4-626.
- Collection of rates, §23-4-628.
- Surcharge to collect rates increased by courts, §23-4-629.
- Conditional implementation of suspended rate, §23-4-627.
- Effective date, §23-4-625.
- Failure of commission to reach timely decision, §23-4-627.
- Mandamus, §23-4-633.
- Interim implementation of suspended rates, §23-4-624.
- Mandamus.
- Petition, §23-4-633.
- Notice, §23-4-620.
- Proposed changes, §23-4-635.
- Orders.
- Issuance, §23-4-628.
- Rate increase not effective until final order, §23-4-625.
- Refunds of excessive bonded collections, §23-4-630.
- Disposition of proceeds, §23-4-634.
- Order not stayed during rehearing, §23-4-631.
- Suit to compel refunds, §23-4-634.
- Surcharge to collect excessive refunds, §23-4-632.
- Schedules.
- Rate changes to be reflected in schedules, §23-4-621.
- Surcharge.
- Collection of excessive refunds, §23-4-632.
- Collection of rates increased on rehearing or by courts, §23-4-629.
- Suspension of proposed rates, §23-4-623.
- Interim implementation of suspended rates, §23-4-624.
- Discrimination.
- Interterritorial freight rates, §23-4-637.
- Establishment.
- Authority of commission, §23-4-101.
- Interstate rates and charges.
- Authority of commission, §23-4-102.

CARRIERS —Cont'd**Rates and charges —Cont'd**

Interterritorial freight rates.

Discriminatory rate, §23-4-637.

Minimum charges, §23-4-109.

Motor carriers.

See MOTOR CARRIERS.

Railroads.

See RAILROADS.

Reasonable rates, §23-4-104.

Required, §23-4-103.

Schedules.

Change in rates.

Rate changes to be reflected in schedules, §23-4-621.

Deviation.

Greater or lesser rate not to be charged, §23-4-107.

Filing, §23-4-105.

Public inspection, §23-4-106.

Sliding scales of rates, §23-4-108.

State highway and transportation department.

Motor carriers.

See MOTOR CARRIERS.

Subchapter cumulative, §23-16-102.**Subrogation.**

Insurance.

Uninsured motorist liability insurance, §23-16-304.

CARS.**General provisions.**

See MOTOR VEHICLES.

CASUALTY INSURANCE.**Applicability of insurer's insolvency protection, §23-89-402.****Assigned risk.**

Eligibility for automobile liability insurance through automobile liability assigned risk plan, §23-89-307.

Banks.

Mortgage loans.

Replacement cost coverage only, §23-47-510.

Benefits.

Exclusion of benefits, §23-89-205.

Minimums, §23-89-201.

Payments under coverage, §23-89-208.

Reimbursement.

Insurer's rights of reimbursement, §23-89-207.

Bodily injury coverage.

Property damage coverage, §23-89-404.

Required, §23-89-403.

Coverage.

Bodily injury, §23-89-403.

Property damage, §23-89-404.

CASUALTY INSURANCE —Cont'd**Definitions, §23-62-105.**

Cancellation of policy, §23-89-301.

Uninsured motor vehicle, §23-89-401.

Eligibility.

Automobile liability insurance through automobile liability assigned risk plan, §23-89-307.

Exclusion of benefits, §23-89-205.**First party coverage.**

Required coverage, §23-89-202.

Guaranty, §§23-90-101 to 23-90-123.

See within this heading, "Property and casualty insurance guaranty."

Insolvency.

Insolvency protection.

Applicability, §23-89-402.

Insured insolvency does not release liability insurer, §23-89-102.

Liabilities.

Tort liability.

Retention, §23-89-206.

Material transactions disclosures,

§§23-63-1401 to 23-63-1406.

See INSURANCE.

Mortgages and deeds of trust.

Bank mortgage loans.

Replacement cost coverage only, §23-47-510.

Financial institution requirements, §23-32-206.

Notice.

Cancellation of policies, §23-89-304.

Proof of mailing, §23-89-306.

Nonrenewal of policies, §23-89-305.

Proof of mailing, §23-89-306.

Passengers.

Coverage for passengers and other not occupying another vehicle, §23-89-204.

Policies.

Cancellation, §23-89-301.

Grounds, §23-89-303.

No liability or cause of action against persons for information or statements relating to cancellation, §23-89-308.

Proof of mailing of notices, §23-89-306.

Time for notice, §23-89-304.

Commercial property and casualty insurance policies, §§23-79-301 to 23-79-312.

Administrative procedures, §23-79-309.

Appeals, §23-79-309.

Applicability of provisions, §23-79-303.

CASUALTY INSURANCE —Cont'd**Policies —Cont'd**

- Commercial property and casualty insurance policies —Cont'd
 - Claims-made policy.
 - Defined, §23-79-302.
 - Construction of provisions, §23-79-304.
 - Minimum standards, §§23-79-301 to 23-79-312.
 - Motor vehicle coverage.
 - Extraterritorial provisions, §23-79-311.
 - Stepdowns, §23-79-312.
 - Noncomplying provisions, §23-79-308.
 - Punitive damages exclusion, §23-79-307.
 - Purpose, §23-79-301.
 - Renewal, §23-79-307.
 - Requirements, §23-79-306.
 - Rules and regulations, §23-79-310.
 - Standards, §23-79-307.
 - Violations, §23-79-305.
- Definitions, §23-89-301.
- First party coverage.
 - Required coverage, §23-89-202.
- Grounds for cancellation of policy, §23-89-303.
- Nonrenewal.
 - Liability or cause of action, §23-89-308.
 - Notice, §23-89-305.
 - Proof of mailing of notices, §23-89-306.
 - Statement of grounds for nonrenewal, §23-89-305.
- Passengers.
 - Coverage for passengers and others not occupying another vehicle, §23-89-204.
- Property and casualty insurance guaranty.
 - Issuance of new or renewal policies, §23-90-118.
- Property and casualty insurance policy simplification, §§23-80-301 to 23-80-308.
 - Applicability, §23-80-304.
 - Citation of act, §23-80-301.
 - Commissioners' powers, §23-80-305.
 - Compliance by provision of outline of coverage, §23-80-308.
 - Compliance with other statutorily required language, §23-80-307.
 - Minimum standards, §23-80-306.

CASUALTY INSURANCE —Cont'd**Policies —Cont'd**

- Property and casualty insurance policy simplification —Cont'd
 - Policy or policy forms defined, §23-80-303.
 - Purpose, §23-80-302.
 - Rejection of coverage, §23-89-203.
- Policy simplification.**
- Applicability, §23-80-304.
 - Citation of act, §23-80-301.
 - Compliance by provision of outline of coverage, §23-80-308.
 - Compliance with other statutorily required language, §23-80-307.
 - Minimum standards, §23-80-306.
 - Policy or policy forms.
 - Defined, §23-80-303.
 - Powers of commissioner, §23-80-305.
 - Purpose, §23-80-302.
- Private passenger automobile liability insurance, §23-89-209.**
- Property and casualty insurance guaranty, §§23-90-101 to 23-90-123.**
- Accounts and accounting.
 - Assessments, §23-90-114.
 - Advertisement and statement prohibition, §23-90-121.
 - Advisory association.
 - Conflicts of interest.
 - Members entering into contracts, §23-90-110.
 - Creation, §23-90-106.
 - Powers and duties, §23-90-108.
 - Procedures, §23-90-107.
 - Recommendations and reports, §23-90-109.
 - Appeals, §23-90-123.
 - Applicability, §23-90-104.
 - Assessments.
 - Accounting for and repayment of, §23-90-114.
 - Claims, §23-90-112.
 - Credit against taxes, §23-90-119.
 - Estimation of amount needed to pay claims, §23-90-112.
 - Failure to pay, §23-90-113.
 - Taxation.
 - Credit against taxes, §23-90-119.
 - Certificates of authority.
 - Suspension or revocation, §23-90-113.
 - Citation of chapter, §23-90-101.
 - Claims.
 - Applicability of chapter, §23-90-111.
 - Estimation of amount needed to pay claims, §23-90-112.
 - Notification of insureds, §23-90-111.

CASUALTY INSURANCE —Cont'd**Property and casualty insurance guaranty —Cont'd****Claims —Cont'd**

Payment, §23-90-115.

Covered claims, §23-90-115.

Estimation of amount needed to pay claims, §23-90-112.

Right of recovery, §23-90-117.

Construction and interpretation, §23-90-105.

Covered claims, §23-90-111.

Defined, §23-90-103.

Duties of receiver, §23-90-116.

Estimated amount needed to pay claims, §23-90-112.

Exemptions from act, §23-90-104.

Failure to pay assessment, §23-90-113.

Insolvent insurer.

Defined, §23-90-103.

Insurer.

Defined, §23-90-103.

Legislative declaration, §23-90-102.

Liability, §23-90-120.

Liberal construction of chapter, §23-90-105.

Net direct written premiums.

Defined, §23-90-103.

Notice, §23-90-111.

Payment of covered claims, §23-90-115.

Defined, §23-90-103.

Person.

Defined, §23-90-103.

Policies.

Issuance of new or renewal policies, §23-90-118.

Purpose of act, §23-90-102.

Receivership.

Duties of receiver, §23-90-116.

Right of recovery, §23-90-117.

Rules and regulations, §23-90-122.

Short title, §23-90-101.

Suspension or revocation of certificates of authority, §23-90-113.

Taxation.

Assessments as credit against taxes, §23-90-119.

Title of chapter, §23-90-101.

Property and casualty insurers.

Annual reports.

Commissioner's relationship, §23-63-1201.

Compilation and review, §23-63-1204.

Contents, §23-63-1202.

Failure to comply with requirement, §23-63-1205.

CASUALTY INSURANCE —Cont'd**Property and casualty insurers —Cont'd****Annual reports —Cont'd**

Due date, §23-63-1203.

General provisions, §§23-63-1201 to 23-63-1205.

Insurance types, §23-63-1202.

Publication, §23-63-1204.

Regulations, §23-63-1201.

Applicability of subchapter, §23-63-1104.

Citation of chapter, §23-63-1101.

Conflicts of laws, §23-63-1104.

Date of required compliance, §23-63-1103.

Definitions, §23-63-1102.

General provisions, §§23-63-1101 to 23-63-1107.

Minimum standards, §23-63-1105.

Notice of relationship with producer, §23-63-1106.

Penalties, §23-63-1107.

Producer's disclosure, §23-63-1106.

Standards generally, §23-63-1105.

Title of subchapter, §23-63-1101.

Violations, §23-63-1107.

Railroad accidents.

Not to be considered in automobile insurance, §23-89-302.

Reimbursement.

Insurers' rights of reimbursement, §23-89-207.

Rejection of coverage, §23-89-203.**Risk-based capital act, §§23-63-1301 to 23-63-1316.**

See INSURANCE.

Risk retention and purchasing groups.

General provisions, §§23-94-201 to 23-94-215.

See RISK RETENTION AND PURCHASING GROUPS.

Risk-sharing plans for property and casualty insurance, §§23-95-101 to 23-95-108.

Board, §23-95-103.

Construction and interpretation, §23-95-102.

Governing board, §23-95-103.

Hearings, §23-95-104.

Immunity from liability, §23-95-107.

Information for individuals, §23-95-106.

Liability, §23-95-107.

Plan for coverage.

Contents, §23-95-105.

Requirement, §23-95-104.

CASUALTY INSURANCE —Cont'd**Risk-sharing plans for property and casualty insurance —Cont'd**

Purpose, §23-95-101.

Required plan.

Information about services prescribed in plan, §23-95-106.

Participation by insurer in losses and expenses, §23-95-105.

Voluntary plan not approved or submitted to commissioner, §23-95-104.

Rules and regulations, §23-95-108.

Voluntary plan.

Information about services prescribed, §23-95-106.

Requirements, §23-95-105.

Submission for approval, §23-95-104.

Subrogation.

Injured persons subrogated to right of insured, §23-89-101.

Insurer making payment, §23-89-405.

Torts.

Retention of tort liability, §23-89-206.

Uninsured motorists.

Definitions, §23-89-401.

Generally.

See UNINSURED MOTORISTS.

CBCT'S, §§23-48-801 to 23-48-810.

See AUTOMATIC TELLER MACHINES.

CEASE AND DESIST ORDERS.**Amusement ride and amusement attraction safety insurance,**

§§23-89-504, 23-89-507, 23-89-509.

Check-cashers, §23-52-115.**Continuing care providers.**

Enforcement of chapter, §23-93-104.

Insurance.

Unfair competition and trade practices, §§23-66-210 to 23-66-212.

Mortgage bankers, brokers and servicers, §23-39-514.**Savings and loan associations.**

Enforcement of chapter, §23-37-212.

Viatical settlements.

Civil remedies, §23-81-613.

CEMETERIES.**Burials.**

Associations.

Insurance, §§23-78-101 to 23-78-125.

See BURIAL INSURANCE ASSOCIATIONS.

CERTIFICATES OF DEPOSIT.**Agency designation, §§23-32-501 to 23-32-509.**

Conflict of laws, §23-32-509.

Definitions, §23-32-501.

CERTIFICATES OF DEPOSIT

—Cont'd

Agency designation —Cont'd

Disability or incapacity.

Survival of authority, §23-32-504.

Discharge of financial institution, §23-32-507.

Forms, §23-32-503.

Payments to agent, §23-32-505.

Payments to minors, §23-32-506.

Scope, §23-32-502.

Setoffs, §23-32-508.

Survival of authority, §23-32-504.

Termination, §23-32-504.

Terms of designation, §23-32-504.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.**Motor carriers.**

See MOTOR CARRIERS.

Public utilities.

See PUBLIC UTILITIES.

CHARGES.

See RATES AND CHARGES.

CHARITIES.**Hospital and medical service corporations.**

Donations.

Power to make donations for the public welfare, §23-75-121.

CHECK-CASHERS, §§23-52-101 to 23-52-117.**Appeals.**

Permit denial, §23-52-113.

Burden of proof.

Appeal from permit denial, §23-52-113.

Cease and desist orders, §23-52-115.**Certification check drawn on legitimate and open account.**

Written certification from customer required, §23-52-106.

Change of control of business, §23-52-110.**Citation of act, §23-52-101.****Complaints of violations, §23-52-117.****Definitions, §23-52-102.****Fees.**

Disclosure of fees, §23-52-105.

Permissible fees, §23-52-104.

Permit fees, §§23-52-108, 23-52-109.

Inspections.

Books and records, §23-52-112.

Investigations.

Complaints, §23-52-117.

Penalties.

Civil penalties for violations, §23-52-115.

CHECK-CASHERS —Cont'd**Permits.**

Appeal from permit denial, §23-52-113.

Applications, §23-52-108.

Action by department on,
§23-52-109.

Fees.

Annual permit fee, §23-52-109.

Initial permit fee, §23-52-108.

Issuance, §23-52-109.

Qualifications, §23-52-107.

Required, §23-52-103.

Revocation or suspension, §23-52-114.

Records, §23-52-112.**Requirements for doing**

check-cashing business,
§23-52-106.

Permit requirement, §23-52-103.

Rules and regulations, §23-52-111.**State board of collection agencies.**

Change of control of business.

Approval of board required,
§23-52-110.

Consent orders, §23-52-116.

Enforcement powers, §§23-52-114,
23-52-115.

Investigation of complaints,
§23-52-117.

Investigation of complaints,
§23-52-117.

Regulations, §23-52-111.

Subpoenas.

Investigation of complaints.

Board of collection agencies,
§23-52-117.

Title of act, §23-52-101.**CHECKS.****Sale of checks act.****Agents.**

Remitting of funds to licensee,
§23-41-110.

Applications for licenses, §23-41-111.

Investigation of applicants,
§23-41-112.

Audit, §23-41-120.

Bonds, surety, §23-41-114.

Deposit of securities in lieu of bond,
§23-41-115.

Citation of chapter, §23-41-101.

Conduct of business.

Agents, §23-41-118.

Location, §23-41-118.

Definitions, §23-41-102.

Discontinuance of business.

Surrender of license, §23-41-108.

Examination of books and records,
§23-41-120.

CHECKS —Cont'd**Sale of checks act —Cont'd**

Exempt transactions, §23-41-103.

Fees.

Disposition, §23-41-106.

Licenses, §23-41-113.

Hearings.

Appeals, §23-41-109.

Investigations to determine
violations of chapter,
§23-41-121.

Judicial review, §23-41-109.

Notice, §23-41-107.

Power of subpoena, §23-41-121.

Revocation of licenses, §23-41-122.

Insolvency.

Discontinuance of business,
§23-41-108.

Investigations.

Authority of commissioner,
§23-41-121.

Investigation upon noncompliance
with act, §23-41-121.

Investments.

Minimum value, §23-41-117.

Licenses.

Annual license fees, §23-41-113.

Applications, §23-41-111.

Investigation of applicants,
§23-41-112.

Conduct of business, §23-41-118.

Exceptions, §23-41-110.

Fees, §23-41-113.

Disposition, §23-41-106.

Investigation upon noncompliance
with act, §23-41-121.

Issuance, §23-41-112.

Minimum net worth of licensees,
§23-41-117.

Renewal, §23-41-113.

Reports.

Semi-annual reports by licensees,
§23-41-119.

Requirements, §23-41-110.

Revocation, §23-41-122.

Grounds, §23-41-122.

Hearing, §23-41-122.

Minimum net worth of licensees,
§23-41-117.

Noncompliance with act.

Investigations, §23-41-121.

Penalties.

Violations, §23-41-104.

Receivers.

Appointment, §23-41-108.

Records.

Examination, §23-41-120.

CHECKS —Cont'd**Sale of checks act —Cont'd**

Reports.

Semi-annual reports, §23-41-119.

Revocation of license, §23-41-122.

Rules and regulations.

Promulgation by commissioner,
§23-41-105.

Subpoenas.

Power of subpoena, §23-41-121.

Title of chapter, §23-41-101.

Transactions exempt, §23-41-103.

Violations.

Penalties, §23-41-104.

CHILDREN.**General provisions.**

See MINORS.

CHOSSES IN ACTION.**Industrial loan institutions.**

Reserves required, §23-36-113.

CITIES.**General provisions.**

See MUNICIPAL CORPORATIONS.

CITIZEN'S BAND RADIOS.**Restrictions on use of equipment,**

§23-1-115.

CLAIMS.**Health maintenance organizations.**

Complaint system, §23-76-116.

Insurance.

See INSURANCE.

Savings and loan associations.

Conflicting claims as to account.

Withholding withdrawals,
§23-37-506.**Workers' compensation.**

General provisions.

See WORKERS' COMPENSATION.

CLERGY.**Railroads.**

Free carriage.

Authorized, §23-4-807.

CLUBS.**Automobile clubs or associations,**

§§23-77-101 to 23-77-109.

See AUTOMOBILE CLUBS OR
ASSOCIATIONS.**Credit unions.**Christmas and other thrift clubs,
§23-35-602.**COAL.****Coal cars.**

Railroads.

Switching charges, §23-4-612.

COAL —Cont'd**Public utilities.**

Electricity.

Arkansas-mined coal.

Use by electric utilities,
§23-18-105.**COLLATERAL.****Creditor-placed insurance,**

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.**COLLECTION AGENCIES.****Board of collection agencies.**

Check-cashers.

See CHECK-CASHERS.

COLLECTIVE BARGAINING.**Public utilities.**

Rates and charges.

Establishment of rates by public
service commission.No changes allowed in terms of
employment subject to
collective bargaining
agreements, §23-4-421.**COMITY.****Reciprocity generally.**

See RECIPROCITY.

COMMERCE.**Air commerce, §§23-14-101 to**

23-14-128.

See AVIATION.

Interstate commerce.

See INTERSTATE COMMERCE.

COMMODITIES.**Futures.**

Dealing in futures generally,

§§23-44-101 to 23-44-109.

See FUTURES.

COMMON CARRIERS.**Carriers generally.**

See CARRIERS.

Motor carriers, §§23-13-101 to

23-13-506.

See MOTOR CARRIERS.

Railroads.

See RAILROADS.

Rate making for carriers generally.

See CARRIERS.

COMMUNITY COLLEGES.**Greyhound racing revenue.**Use of revenue derived from additional
racing days, §23-111-515.**COMMUNITY DEVELOPMENT
CORPORATIONS.****Bank subsidiaries, §23-47-605.**

COMPENSATING TAX.**Banks.**

Applicability, §23-48-101.

Savings and loan associations.

Applicability of provisions, §23-37-108.

COMPLAINTS.**Highways.**

Repeal of provisions, effect, §23-2-430.

Motor carriers.

See MOTOR CARRIERS.

COMPREHENSIVE HEALTH

INSURANCE POOL, §§23-79-501 to 23-79-510.

Assessments, §23-79-507.**Benefits.**

Outline of benefits, §23-79-510.

Board of directors, §23-79-504.

Plan of operation, §23-79-505.

Citation of act.

Short title, §23-79-502.

Collective action.

Immunity from liability, §23-79-512.

Confidentiality of information, §23-79-511.**Coverage under plan.**

Benefits, §23-79-510.

Eligibility, §23-79-509.

Policy renewal, §23-79-510.

Creation, §23-79-504.**Definitions, §23-79-503.****Eligibility, §23-79-509.****Funding of pool, §23-79-507.****Immunity.**

Board not liable for obligations of pool, §23-79-504.

Collective actions, §23-79-512.

Insurers.

Assessments, §23-79-507.

Defined, §23-79-503.

Participation in pool, §23-79-504.

Plan.

Coverage under.

Policy renewal, §23-79-510.

Defined, §23-79-503.

Plan administrator, §23-79-508.**Plan of operation, §23-79-505.****Powers, §23-79-506.****Premiums.**

Funding of pool, §23-79-507.

Purpose, §23-79-501.**Reciprocal agreements, power to enter into, §23-79-506.****Study by legislature, §23-79-514.****Title of act.**

Short title, §23-79-502.

Unfair competition and trade practices.

Unfair referrals to plan, §23-79-513.

COMPROMISE AND SETTLEMENT.**Underinsured motorists.**

Tentative agreement, §23-89-209.

CONDEMNATION.**Eminent domain.**

General provisions.

See EMINENT DOMAIN.

CONFIDENTIALITY OF INFORMATION.**Automatic teller machines.**

Account information, §23-48-808.

Bank department.

Travel expenses of staff, §23-46-206.

Banks.

Automatic teller machines, §23-48-808.

Bank department and banking board records, §23-46-101.

Comprehensive health insurance pool, §23-79-511.**Electric utility bills, usage and payment records, §23-2-304.****Health insurance.**

Portability and accountability.

Disclosure of information by health plan issuers, §23-86-313.

Health maintenance organizations.

Filings and reports as public documents, §23-76-128.

Medical information, §23-76-129.

Insurance.

Commissioner.

Books and records, §23-61-107.

Examination of insurers.

Ancillary information, §23-61-207.

Disclosure of nonpublic personal information, §23-61-113.

Domestic stock and mutual insurers.

Provisions for the prevention of unfair use of information by owners, directors and officers, §23-69-205.

Fraudulent insurance acts.

Mandatory reporting, §23-66-507.

Group and blanket health insurance.

Mental health coverage, §23-86-113.

Holding companies, §23-63-517.

Mutual insurance holding companies, §23-69-320.

Records, §23-63-517.

Professional employer organizations, §23-92-413.**Property insurance.**

Fire loss reporting act, §23-88-403.

Public service commission.

Electric utility bills, usage and payment records, §23-2-304.

CONFIDENTIALITY OF**INFORMATION —Cont'd****Risk-based capital act.**

RBC reports and plans, §23-63-1309.

Health organizations, §23-63-1508.

Savings and loan associations.Divulging of information by employees,
§23-37-202.**Securities regulation.**

Commissioner, §23-42-203.

Trust companies.

Records, §23-51-187.

Viatical settlements.Fraud prevention and control,
§23-81-612.**CONFLICT OF LAWS.****Financial institutions.**Agency designation on certificates of
deposit, §23-32-509.**Horse racing.**Statutes prohibiting betting on racing
inapplicable, §23-110-102.**Insurance.**

Assets.

Conflicts in treatment of,
§23-63-610.**Trust companies.**

Choice of law, §§23-51-198, 23-51-199.

CONFLICTS OF INTEREST.**Aviation.**

Air commerce.

Transportation commission,
§23-14-108.**Bank department.**

Staff, §23-46-207.

Electric cooperative corporations.

Board of directors, §23-18-321.

Greyhound racing.

Racing commission.

Persons prohibited from
membership, §23-111-202.**Health insurance.**Small employer health insurance
purchasing groups, §23-86-508.**Horse racing.**

Racing commission.

Persons prohibited from
membership, §23-110-201.**Insurance.**

Commissioner, §23-61-106.

Property and casualty insurance
guaranty.

Advisory association.

Members may enter into
contracts, §23-90-110.**CONFLICTS OF INTEREST —Cont'd****Railroads.**Officers interested in furnishing
supplies.

Contracts void, §23-10-108.

**Rural telecommunications
cooperatives.**

Board of directors, §23-17-239.

Trust companies.

Criminal violations, §23-51-145.

Interests in trust institutions,
§23-51-196.

Trustees.

Disclosure, §23-51-195.

Viatical settlements.

Examiners, §23-81-607.

CONSENT.**Viatical settlements.**

Contract prerequisites, §23-81-609.

CONSERVATION.**Insurance.**

See INSURANCE.

CONSERVATORS.**Fiduciaries.**

General provisions.

See FIDUCIARIES.

CONSOLIDATION.**Electric cooperative corporations,**

§§23-18-324, 23-18-326.

Fraternal benefit societies,

§23-74-305.

Insurance.

See INSURANCE.

Public utilities.Approval by regulatory commissions,
§23-3-102.**Railroads.**

See RAILROADS.

CONSTRUCTION.**Rural telecommunications****cooperatives.**Instruction standards of
telecommunications lines and
facilities, §23-17-236.**CONSTRUCTIVE SERVICE.****Service of process generally.**

See SERVICE OF PROCESS.

CONSUMER CHOICE IN HEALTH**INSURANCE, §§23-79-801 to
23-79-805.**

See HEALTH INSURANCE.

CONSUMER CREDIT.**Use of credit information in
personal insurance act,**

§§23-67-401 to 23-67-415.

See INSURANCE.

CONSUMER PROTECTION.

Health insurance, §§23-99-401 to 23-99-416.

Insurance.

Unfair competition and trade practices, §§23-66-601 to 23-66-609 .

See INSURANCE.

Public utilities.

Consumer utilities rate advocacy division.

See PUBLIC UTILITIES.

Unfair competition and trade practices.

§§23-66-601 to 23-66-609.

See INSURANCE.

Use of credit information in personal insurance act,

§§23-67-401 to 23-67-415.

See INSURANCE.

CONSUMER UTILITIES RATE ADVOCACY DIVISION.

See PUBLIC UTILITIES.

CONTEMPT.**Highways.**

State highway and transportation department.

Witnesses.

Refusal to attend or testify, §23-2-410.

Railroads.

Discrimination.

Mandamus to enforce act.

Failure to comply, §23-4-719.

CONTINUING CARE PROVIDERS.**Accounts and accounting.**

Interest-bearing escrow account.

Provider required to establish, §23-93-112.

Actions.

Enforcement of chapter, §23-93-104.

Advertising.

Untrue, deceptive or misleading statements.

Prohibited, §23-93-110.

Applicability of chapter, §23-93-102.**Bankruptcy and insolvency.**

Resident's statutory lien on real and personal property, §23-93-113.

Citation of chapter, §23-93-101.**Contracts.**

Contents.

Minimum content requirements, §23-93-108.

Licenses, §23-93-203.

Refunds.

Rescission of contractual obligation, §23-93-109.

Requirements, §23-93-108.

Rescission, §23-93-109.

CONTINUING CARE PROVIDERS

—Cont'd

Contracts —Cont'd

Written in clear and understandable language.

Required, §23-93-108.

Definitions, §23-93-103.

Licenses, §23-93-201.

Disclosure statements.

Annual disclosure statements.

Contents, §23-93-106.

Required, §23-93-106.

Deficiencies.

Notice, §23-93-107.

Initial disclosure statements, §23-93-106.

Contents, §23-93-106.

Required, §23-93-106.

Inspections, §23-93-107.

Notice.

Deficiencies, §23-93-107.

Review, §23-93-107.

Enforcement of chapter, §23-93-104.**Escrow.**

Interest-bearing escrow account.

Requirements, §23-93-112.

Examinations.

Insolvent facilities.

Financial examinations conducted, §23-93-114.

Financial statements.

Inaccurately stating true financial condition.

Prohibited, §23-93-110.

Injunctions.

Enforcement of chapter, §23-93-104.

Intention of general assembly,

§23-93-102.

Investigations.

Grounds for investigation, §23-93-114.

Powers of commissioner, §23-93-114.

Licenses, §§23-93-201 to 23-93-207.

Agency action on application.

Time period, §23-93-206.

Applicability of act, §23-93-202.

Application.

Contents, §23-93-207.

Denial, §23-93-206.

Documents and information required, §23-93-207.

Fees, §23-93-206.

Time period for agency action, §23-93-206.

Criteria for issuance, §23-93-204.

Definitions, §23-93-201.

Disciplinary actions, §23-93-205.

Fees.

Application fee, §23-93-206.

Entrance fee.

Defined, §23-93-201.

CONTINUING CARE PROVIDERS

—Cont'd

Licenses —Cont'd

Issuance, §23-93-204.

Management of facility.

Limitation on third-party provider contracts, §23-93-203.

Reconsideration of application, §23-93-206.

Scope of act, §23-93-202.

Transferability, §23-93-203.

Violations, §23-93-205.

Liens.

Bankruptcy or receivership of provider resulting from financial difficulties.

Resident's statutory lien on real and personal property, §23-93-113.

Liquid refund reserves, §23-93-111.**Mandamus.**

Enforcement of chapter, §23-93-104.

Notice.

Disclosure statements.

Deficiencies, §23-93-107.

Licenses.

Disciplinary actions, §23-93-205.

Orders.

Cease and desist orders.

Enforcement of chapter, §23-93-104.

Receivers.

Bankruptcy or receivership of provider resulting from financial difficulties.

Resident's statutory lien on real and personal property, §23-93-113.

Refunds.

Liquid refund reserves.

Establishing and maintaining.

Required, §23-93-111.

Information relating to amount and method used to maintain furnished upon request, §23-93-111.

Satisfaction of reserve requirement, §23-93-111.

Rescission of contractual obligation, §23-93-109.

Rescission of contract, §23-93-109.**Rules and regulations, §23-93-105.****Title of chapter, §23-93-101.****CONTINUING EDUCATION.****Insurance agents, §§23-64-301 to 23-64-307.**

See INSURANCE.

Mortgage bankers, brokers and servicers, §23-39-507.**CONTRACT CARRIERS.**

See MOTOR CARRIERS.

CONTRACTS.**Assignments.**

Nonnegotiable instruments generally.

See ASSIGNMENTS.

Banks.

Dissolution and liquidation.

Rejection of executory contracts, §23-49-112.

Bonds, surety.

Surety insurers.

See BONDS, SURETY.

Commodities.

Dealing in futures generally, §§23-44-101 to 23-44-109.

See FUTURES.

Continuing care providers.

Contents.

Minimum content requirements, §23-93-108.

Licenses, §23-93-203.

Refunds.

Rescission of contractual obligation, §23-93-109.

Requirements, §23-93-108.

Rescission, §23-93-109.

Written in clear and understandable language.

Required, §23-93-108.

Fraternal benefit societies.

Benefit contracts.

See FRATERNAL BENEFIT SOCIETIES.

Consolidation or merger, §23-74-305.

Funerals.

Prepaid funeral services.

Cancellation of contract, §23-40-122.

Designation of agent for depositing proceeds, §23-40-118.

Failure to deliver proceeds to agent, §23-40-118.

Life insurance policy or annuity on contract.

Procurement by seller, notice to purchaser, §23-40-112.

Requirement, §23-40-112.

Futures.

Dealing in futures generally, §§23-44-101 to 23-44-109.

See FUTURES.

Health maintenance organizations.

Authority to contract.

Director of the department of health, §23-76-130.

Hold harmless clauses.

Protection against insolvency, §23-76-118.

CONTRACTS —Cont'd**Highways.**

State highway and transportation department.

Orders.

Contracts in violation of orders.

Void, §23-1-112.

Hospital and medical service corporations.

Subscription contracts, §23-75-111.

Insurance.

See INSURANCE.

Legal insurance.

Management and exclusive agency contracts, §23-91-214.

Monopolies and restraint of trade.**Railroads.**

Control of parallel or competing line.

Contracts for acquisition void,
§23-11-311.

Motor carriers.

Contract carriers.

See MOTOR CARRIERS.

Prepaid funeral services.

Cancellation, §23-40-122.

Disposition of proceeds, §23-40-118.

Life insurance policy or annuity on contract.

Procurement by seller, notice to purchaser, §23-40-112.

Requirement, §23-40-112.

Property and casualty insurance policy simplification.

See CASUALTY INSURANCE.

Public utilities.

Interruptable contracts for service with industrial users.

Power of utilities to make,
§23-3-117.

Violation of act or orders of commission.

Void contracts, §23-1-112.

Railroads.

Conflicts of interest.

Officers interested in certain contracts.

Contracts void, §23-10-108.

Consolidation, §§23-11-305, 23-11-306.

Freight.**Liability.**

Contracts abridging liability of railroad void, §23-10-408.

Monopolies.

Control of parallel or competing line.

Contracts for acquisition void,
§23-11-311.

Telephone and telegraph companies.

Exclusive privileges.

Contracts for prohibited, §23-17-105.

CONTRACTS —Cont'd**Trust companies.**

Dissolution and liquidation.

Rejection of executory contracts,
§23-49-112.

Viatical settlements.

Prerequisites to contract, §23-81-609.

Prohibited contracts, §23-81-610.

CONTROLLED SUBSTANCES.**Drugs.**

See DRUGS.

Insurance.

Health insurance.

Policy provisions, §23-85-126.

Motor carriers.

Operation while in possession of,
consuming or under influence of,
§23-13-258.

CONVEYANCES.**Insurance.**

Deposits.

Assignment or conveyance of securities or assets, §23-63-906.

COOPERATIVE ASSOCIATIONS.**Electric cooperative corporations,**

§§23-18-301 to 23-18-331.

See ELECTRIC COOPERATIVE CORPORATIONS.

Rural telecommunications

cooperatives, §§23-17-201 to 23-17-242.

See RURAL

TELECOMMUNICATIONS COOPERATIVES.

COPIES.**Securities regulation.**

Records of commissioner, §23-42-206.

CORPORATIONS.**Agriculture.**

Electric cooperative corporations,
§§23-18-301 to 23-18-331.

See ELECTRIC COOPERATIVE CORPORATIONS.

Associations.

General provisions.

See ASSOCIATIONS.

Banks.

Applicability of business corporation act, §23-48-326.

Burial associations.

Insurance, §§23-78-101 to 23-78-125.

See BURIAL INSURANCE ASSOCIATIONS.

Business corporation act, §23-48-326.

Banks.

Applicability, §23-48-326.

CORPORATIONS —Cont'd**Business corporation act —Cont'd**

Trust companies.

Applicability, §23-51-111.

Electric cooperative corporations,

§§23-18-301 to 23-18-331.

See ELECTRIC COOPERATIVE
CORPORATIONS.

**Foreign electric light and power
corporations.**

Domestication.

Required, §23-3-108.

Service of process, §23-3-108.

Foreign investor companies.

Applicability, §23-32-402.

**Hospital and medical service
corporations.**

See HOSPITAL AND MEDICAL
SERVICE CORPORATIONS.

Insurance.

Companies.

See INSURANCE.

Investor protection take-over act.

Take-over offers generally, §§23-43-101
to 23-43-117.

See SECURITIES REGULATIONS.

Medical service corporations.

See HOSPITAL AND MEDICAL
SERVICE CORPORATIONS.

Municipal corporations.

General provisions.

See MUNICIPAL CORPORATIONS.

Public corporations for municipal
facilities.

See MUNICIPAL CORPORATIONS.

Railroads.

Foreign corporations.

See RAILROADS.

General provisions.

See RAILROADS.

Stock and stockholders.

Investor protection take-over act.

Take-over offers generally,
§§23-43-101 to 23-43-117.

See SECURITIES
REGULATIONS.

Take-over offers.

Investor protection take-over act,
§§23-43-101 to 23-43-117.

See SECURITIES REGULATIONS.

Telephone and telegraph companies,

§§23-17-101 to 23-17-121.

See TELEPHONE AND TELEGRAPH
COMPANIES.

Trust companies.

Applicability of corporate laws,
§23-51-111.

CORPORATIONS —Cont'd**Water power companies, §§23-18-401
to 23-18-410.**

See WATER POWER COMPANIES.

COSTS.**Attorneys' fees.**

Generally.

See ATTORNEYS' FEES.

Banks.

Organizational expenses, §23-48-302.

Plans of exchange.

Appraiser's expenses, §23-48-603.

Safe deposit boxes.

Nonpayment of rent, §23-47-906.

Highways.

State highway and transportation
department.

Contests.

Unsuccessful party to be taxed
with costs, §23-2-428.

Deposit of costs.

Department not required to
deposit, §23-2-428.

Mortgages and deeds of trust.

Home loan protection act.

High-cost home loans.

Liability for violations, §23-53-106.

Public service commission.

Contest before commission.

Unsuccessful party to be taxed with
costs, §23-2-428.

Deposit of costs.

Commission not required to deposit,
§23-2-428.

Trust companies.

Investment costs.

Trustee's responsibilities,
§23-51-206.

COTTON.**Futures.**

Contracts.

Validity of contracts relating to
cotton, §23-44-103.

COUNSELORS.**Health insurance.**

Group and blanket health insurance.

Mental health coverage, §23-86-113.

COUNTIES.**Direct actions against insurer,**

§23-79-210.

COURT OF APPEALS.**Public service commission.**

Appeals.

Orders of commission.

Acquisition, control or merger of
public utilities, §23-3-313.

Stay of order pending review,
§23-3-314.

COURT OF APPEALS —Cont'd
Public service commission —Cont'd
 Appeals —Cont'd
 Orders of commission —Cont'd
 Jurisdiction, §23-2-423.

COURTS.

Jury.

General provisions.
 See JURY.

Public utilities.

Environmental and economic
 protection.
 Jurisdiction of courts, §23-18-525.

COVERED SECURITIES, §23-42-509.

CRANIOMANDIBULAR DISORDER.

Health insurance.

Optional coverage to be offered,
 §23-79-150.

Health maintenance organizations.

Optional coverage to be offered,
 §23-79-150.

**Hospital or medical services
 corporations.**

Optional coverage to be offered,
 §23-79-150.

CREDIT AND CREDITORS.

Insurance.

Credit life and disability insurance,
 §§23-87-101 to 23-87-119.

See CREDIT LIFE AND
 DISABILITY INSURANCE.

Creditor-placed insurance,
 §§23-101-101 to 23-101-114.

See CREDITOR-PLACED
 INSURANCE.

**CREDIT LIFE AND DISABILITY
 INSURANCE**, §§23-87-101 to
 23-87-119.

Amounts of insurance authorized,
 §23-87-108.

Appeals.

Parties aggrieved by decisions of
 commissioner, §23-87-119.

Certificates.

Forms.

Filing, approval and withdrawal of
 forms, §23-87-112.

Policies.

Delivery of policy or certificate,
 §23-87-111.

Provisions of policies and
 certificates.

Disclosure to debtors, §23-87-110.

Citation of chapter, §23-87-101.

Claims.

Reporting, §23-87-115.

**CREDIT LIFE AND DISABILITY
 INSURANCE** —Cont'd

Compensation.

Limitations, §23-87-117.

Construction and interpretation,
 §23-87-105.

Definitions, §23-87-103.

Enforcement of provisions,
 §23-87-118.

Forms.

Policies.

Filing, approval and withdrawal of
 forms, §23-87-112.

Issuance of policies, §23-87-114.

Judicial review, §23-87-119.

Legislative declaration.

Purpose of provisions, §23-87-102.

Penalties.

Violations, §23-87-106.

Policies.

Amounts of insurance authorized,
 §23-87-108.

Certificates.

Delivery of policy or certificate,
 §23-87-111.

Disclosure of provisions to debtors,
 §23-87-110.

Compensation.

Limitations, §23-87-117.

Delivery, §23-87-111.

Enforcement of provisions, §23-87-118.

Existing insurance.

Choice of insurer, §23-87-116.

Forms.

Filing, approval and withdrawal,
 §23-87-112.

Issuance, §23-87-114.

Allowable forms, §23-87-107.

Penalties for violations, §23-87-106.

Premiums.

Schedules of premium rates,
 §23-87-113.

Provisions required.

Disclosure to debtors, §23-87-110.

Terms of insurance, §23-87-109.

Premiums.

Schedule of premium rates,
 §23-87-113.

Purpose of provisions, §23-87-102.

Rates.

Schedule, §23-87-113.

Refunds, §23-87-113.

Reports.

Claims, §23-87-115.

Scope of chapter, §23-87-104.

Short title, §23-87-101.

Terms of insurance, §23-87-109.

CREDITOR-PLACED INSURANCE,

§§23-101-101 to 23-101-114.

Actual cash value.

Defined, §23-101-103.

ACV.

Defined, §23-101-103.

Applicability of provisions,

§23-101-102.

Blanket insurance.

Defined, §23-101-103.

Certificates.

Approval of forms, §23-101-108.

Evidence of coverage, §23-101-107.

Claims.

Amount paid, §23-101-110.

Collateral.

Defined, §23-101-103.

Security interest in collateral,
§23-101-111.

Credit agreements.

Defined, §23-101-103.

Creditors.

Defined, §23-101-103.

Rights and duties of parties,
§23-101-111.

Credit transactions.

Defined, §23-101-103.

Dates of insurance, §23-101-105.**Debtors.**

Defined, §23-101-103.

Disclosures to debtor, §23-101-113.

Rights and duties of parties,
§23-101-111.

Definitions, §23-101-103.**Disclosures to debtor, §23-101-113.****Evidence of coverage, §23-101-107.****Insurance tracking.**

Defined, §23-101-103.

Insurers.

Defined, §23-101-103.

Lapse.

Defined, §23-101-103.

Legislative intent, §23-101-101.**Limited dual interest insurance.**

Defined, §23-101-103.

Loss ratio.

Defined, §23-101-103.

Net debt.

Defined, §23-101-103.

Policies.

Approval of forms, §23-101-108.

Evidence of coverage, §23-101-107.

Premiums.

Calculation, §23-101-106.

Payment, §23-101-106.

Insurers' requirements, §23-101-112.

Rates, §23-101-108.

CREDITOR-PLACED INSURANCE

—Cont'd

Premiums —Cont'd

Refund of unearned premiums,
§23-101-109.

Producers.

Defined, §23-101-103.

Prohibited coverages, §23-101-104.**Purpose of provisions, §23-101-101.****Rulemaking to implement provisions, §23-101-114.****Scope of provisions, §23-101-102.****Single interest insurance.**

Claims.

Amount paid, §23-101-110.

Defined, §23-101-103.

Unearned premiums.

Refund of unearned premiums,
§23-101-109.

**CREDIT REPORTING
DISCLOSURES.****Insurance.**

Use of credit information in personal
insurance, §§23-67-401 to
23-67-415.

See INSURANCE.

CREDIT UNIONS.**Accounts and accounting.**

Prohibited actions, §23-35-803.

**Amendments to articles of
incorporation and bylaws.**

Approval, §23-35-302.

Application for loans.

Credit committee, §23-35-306.

Articles of incorporation.

Amendments.

Approval, §23-35-302.

Assets.

Reduction of assets, §23-35-608.

Authority of credit unions,

§23-35-601.

Board of directors.

Bylaws.

Provisions and bylaws, §23-35-303.

Compensation, §§23-35-308, 23-35-804.

Duties, §23-35-304.

Election, §23-35-303.

Functions, §23-35-304.

Managing business affairs, §23-35-303.

Prohibited actions, §23-35-803.

Bylaws.

Amendments.

Approval, §23-35-302.

Board of directors.

Provisions and bylaws, §23-35-303.

Capital development companies.

Investment in and loans to,
§23-32-202.

CREDIT UNIONS —Cont'd**Central credit unions.**

Operation, §§23-35-102.

Purpose, §§23-35-101.

Certificates of deposit.

Agency designations, §§23-32-501 to 23-32-507.

Charter.

Application, §§23-35-301.

Procedure for obtaining, §§23-35-301.

Christmas clubs, §§23-35-602.**Clubs.**

Thrift clubs, §§23-35-602.

Committees.

Credit committee, §§23-35-306.

Election, §§23-35-303.

Supervisory committee, §§23-35-603.

Compensation of officers, §§23-35-804.**Conversions.**

Federal credit unions.

Conversion to or from federal credit union, §§23-35-702.

Credit committee.

Application for loans, §§23-35-306, 23-35-603.

Loan officers, §§23-35-306.

Criminal law and procedure.

See CRIMINAL LAW AND PROCEDURE.

Definitions, §§23-35-101.**Dissolution.**

Voluntary dissolution.

Procedure, §§23-35-703, 23-35-705.

Dividends.

Declaration, §§23-35-607.

Division.

Supervisor to administer, §§23-35-201.

Eligibility for members, §§23-35-401.**Examinations.**

Fees, §§23-35-203.

Report, §§23-35-203.

Supervisor to examine, §§23-35-203.

Expulsion of members, §§23-35-404.**Federal credit unions.**

Conversions.

Conversion to or from federal credit union, §§23-35-702.

Fees.

Examination by state credit union supervisor, §§23-35-203.

Supervision fee.

Annual fee, §§23-35-205.

Fiscal year, §§23-35-609.**Improper use of words "credit union."**

Penalty, §§23-35-801.

Inability to contact members.

Transfer of funds to reserves, §§23-35-606.

CREDIT UNIONS —Cont'd**Insurance.**

Group annuities and group life insurance, §§23-83-105.

Organization, §§23-35-104.

Interest.

Loans, §§23-35-603.

Investments.

Authorized investment, §§23-35-604.

Joint tenancy.

Nonmembers, §§23-35-504.

Liens.

Shares, §§23-35-501.

Liquidation.

Involuntary dissolution.

Procedure, §§23-35-705.

Involuntary liquidation, §§23-35-704.

Procedure, §§23-35-705.

Loans.

Commission or compensation for grant of loan, §§23-35-802.

Credit committee.

Application for loan, §§23-35-306, 23-35-603.

Extensions of credit, §§23-35-603.

Interest, §§23-35-603.

Limitations, §§23-35-603.

Prohibited actions, §§23-35-803.

Restriction, §§23-35-603.

Meetings, §§23-35-403.**Members.**

Eligibility for membership, §§23-35-401.

Expulsion of member, §§23-35-404.

Inability to contact members.

Transfer of funds to reserves, §§23-35-606.

Joint tenancy with nonmembers, §§23-35-504.

Nonliability of members, §§23-35-402.

Suspension.

Supervisory committee, §§23-35-307.

Merger.

Procedure, §§23-35-701.

Minors.

Shares in name of minor, §§23-35-502.

Names.

Improper use of words "credit union," §§23-35-801.

Restrictions on use, §§23-32-209.

Oaths.

Officers, §§23-35-305.

Officers.

Compensation, §§23-35-308.

Oaths, §§23-35-305.

Prohibited actions, §§23-35-803.

Selection, §§23-35-305.

Terms, §§23-35-305.

CREDIT UNIONS —Cont'd**Offices.**

Subsidiary offices.

Establishment, §23-35-610.

Organization.

Insurance, §23-35-104.

Penalties.

Improper use of words "credit union,"
§23-35-801.

Reports.

Failure to file, §23-35-204.

False reports about credit union,
§23-35-805.

Powers.

Enumeration, §23-35-601.

Purpose, §23-35-101.**Records.**

Keeping records, §23-35-611.

Reduction of assets, §23-35-608.**Reports.**

Examination by state credit union
supervisor, §23-35-203.

False reports about credit union.
Penalty, §23-35-805.

Penalty for failure to file, §23-35-204.

Reserves.

Composition, §23-35-605.

Inability to contact members.

Transfer of funds to reserve,
§23-35-606.

Requirements, §23-35-605.

Setting aside money for reserves.
Method, §23-35-605.

Rules and regulations.

Supervisor.

Supervision of credit union,
§23-35-610.

Shares.

Commission or compensation for sale,
§23-35-802.

Defined, §23-35-501.

Dividends.

Declaration, §23-35-607.

Generally, §23-35-501.

Lien on shares, §23-35-501.

Minors.

Shares in name of minor,
§23-35-502.

No individual liability, §23-35-402.

Prohibited actions, §23-35-803.

Trusts.

Issuance in trust, §23-35-503.

Subsidiaries.

Establishment of subsidiary offices,
§23-35-610.

Supervision fee.

Annual supervision fee, §23-35-205.

CREDIT UNIONS —Cont'd**Supervisor.**

Division.

Administration of division,
§23-35-201.

Examination, §23-35-203.

Rules and regulations.

Supervision of credit union,
§23-35-202.

Supervisory committee.

Duties, §23-35-307.

Powers, §23-35-307.

Suspension of members, §23-35-307.

Suspension of operations.

Involuntary liquidation, §23-35-704.

Taxation.

Extent of taxation, §23-35-103.

Trusts and trustees.

Shares issued in trust, §23-35-503.

Voting, §23-35-403.**Year.**

Fiscal year, §23-35-609.

CRIMINAL LAW AND PROCEDURE.

Amusement rides and attractions,
§23-89-504.

Amusements.

Safety of patrons, §23-89-514.

Arson.

See ARSON.

Automobile clubs or associations,
§23-77-103.

Aviation, §23-14-104.

Banks.

Acceptance of bribes, §23-50-108.

Bank holding company violations,
§23-48-403.

Bribery, §23-50-106.

Certification of check with insufficient
funds, §23-50-110.

Circulation of false rumors,
§23-50-104.

Embezzlement or misuse of funds,
§23-50-105.

Examiners.

Disclosure or falsification of
information, §23-50-109.

False reports by commissioners or
examiners, §23-50-108.

Falsification of records, §§23-50-106,
23-50-107.

Loans secured by liens on agricultural
lands.

Violation of prepayment privileges,
§23-32-203.

Misleading use of name or title,
§23-50-103.

Runs on banks.

Causing, §23-50-104.

CRIMINAL LAW AND PROCEDURE

—Cont'd

Banks —Cont'd

Trust funds.

Loans of trust funds to officers and employees, §23-47-707.

Unauthorized use of name or title, §23-32-209.

Bucket shops.

Commodities futures, §23-44-102.

Building and loan associations.

Annual reports.

Failure to file, §23-38-102.

Embezzlement, unauthorized acts, etc., §23-38-401.

False statements injurious to association.

Circulation of, §23-38-404.

Publication of false advertisement or report of financial condition, §23-38-402.

Burial associations.

Failure to comply with provisions, §23-78-104.

False claim, promise or representation of agent, §23-78-114.

False entries in books, §23-78-118.

False statements, §23-78-111.

Carriers, §23-16-201.

Agreements to pay charge for additional mode of transportation, §23-10-109.

Checks.

Sale of checks, §23-41-104.

Citizens band radios.

Violations of restrictions on use of equipment, §23-1-115.

Commodities futures.

Bucket shops, §23-44-102.

Credit unions.

False reports about credit union, §23-35-805.

Misleading conduct as credit union, §23-35-801.

Officers, directors, etc.

Prohibited acts, §23-35-803.

Use of words "credit union," §23-35-801.

Dog racing.

Compliance with franchise, §23-111-501.

Failure to appear or testify at hearings, §23-111-205.

Failure to pay tax, §23-111-513.

False affidavits of officers and directors, §23-111-406.

Improper wagering, §23-111-508.

CRIMINAL LAW AND PROCEDURE

—Cont'd

Dog racing —Cont'd

Issuance of sales tax-free passes, §23-111-510.

Evidence.

General provisions.

See EVIDENCE.

Felonies.

General provisions.

See FELONIES.

Fraternal benefit societies.

Fraudulent statements or solicitations of membership, §23-74-703.

Fraud.

General provisions.

See FRAUD.

Insurance holding companies, §23-63-522.

Securities, §23-42-104.

Funeral benefits.

Sale of prepaid benefits, §23-40-106.

Failure to deposit contract proceeds, §23-40-118.

Failure to file annual report, §23-40-119.

Health maintenance organizations,

§23-76-105.

Horse racing.

Compliance with license, §23-110-410.

Failure to appear or testify at hearings, §23-110-205.

Failure to pay tax, §23-110-415.

False applications for employment, §23-110-308.

Improper wagering, §23-110-405.

Issuance of sales tax-free passes, §23-110-411.

Insurance, §23-60-108.

Advertising by health and accident insurers and prepaid health plans, §23-66-316.

Default by insurance producer, §23-64-232.

Disclosure of confidential information, §23-66-315.

Domestic stock and mutual insurers.

Records.

Concealment or removal from home office, §23-69-134.

Unauthorized dividends, §23-69-131.

False or misleading statements, §23-60-109.

Fraudulent insurance acts, §23-66-512.

Holding companies, §23-63-522.

Cease and desist orders.

Failure to obey, §23-63-529.

CRIMINAL LAW AND PROCEDURE

—Cont'd

Insurance —Cont'd

Holding companies —Cont'd

Proceedings for violations,
§23-63-522.Inducement to forfeit, surrender, etc.,
other policies, §23-66-307.Misrepresentation of other policies,
§23-66-306.

Surplus lines insurance.

Failure to file annual statement or
remit tax, §23-65-316.

Unauthorized insurance.

Cease and desist orders.

Failure to obey, §23-65-101.

Records produced on order.

Refusal to obey order, §23-65-104.

Loan brokers.

Advance fee loan brokers, §23-39-405.

Loans.Prepayment privilege for loans secured
by agricultural liens.

Violations by lender, §23-32-203.

Misdemeanors.

General provisions.

See MISDEMEANORS.

**Mortgage bankers, brokers and
servicers, §23-39-516.****Motor carriers, §§23-13-257, 23-13-401.**

Alcoholic beverages.

Operation while consuming or under
influence of, §23-13-258.Operation without certificate or
permit, §23-13-234.

Passengers, §23-13-401.

Rest periods and hours of duty of
drivers, §23-13-101.**Motor vehicle manufacturers,
dealers, etc.**Failure to obtain a license,
§23-112-301.**Names.**

Banks.

Misleading use, §23-50-103.

Financial institutions.

Unauthorized use of name or title,
§23-32-209.**Perjury.**

See PERJURY.

Property insurance.Willful violations by insurer,
§23-88-204.**Public service commission, §23-2-409.**

Service of process, §23-2-405.

Public utilities, §23-3-304.

False testimony or reports, §23-1-105.

CRIMINAL LAW AND PROCEDURE

—Cont'd

Railroads, §23-4-803.Access to railroad books by
commissioners, §23-4-718.Announcements of departures,
destinations and track numbers,
§23-10-205.Bulletin boards showing arrival and
departure times, §23-10-203.Business solicitations of passengers,
§23-10-208.

Depot facilities, §23-10-201.

Express offices and delivery,
§23-10-302.Extra pay to employees for furnishing
cars to shipper, §23-10-429.

Livestock or poultry.

Shipper's pass, §23-10-441.

Operation and maintenance.

Animals killed on railroad,
§23-12-806.Blocks in frogs and guardrails,
§23-12-512.

Caboose cars, §23-12-403.

Discharging firearms or throwing
objects, §23-12-804.

Engines, §23-12-401.

Equipment on track motor cars,
§23-12-404.Establishment, discontinuance or
modification of service,
§23-12-609.First aid kits and drinking water,
§23-12-405.

Headlights, §23-12-402.

Hospital facilities provided in state,
§23-12-508.Improper language in waiting rooms
or cars, §23-12-801.Intoxication of engineer or
conductor, §23-12-807.Killing or injuring livestock,
§23-12-911.

Lights on switches, §23-12-408.

Maintenance of right-of-way,
§23-12-201.Maintenance of way employees.
Drinking water furnished,
§23-12-511.

Repairs to cars, §23-12-407.

Shelters, §23-12-513.

Stopping train within town limits,
§23-12-606.Telephone and telegraph operator
duty hours, §23-12-510.Trespassers boarding trains,
§23-12-802.

CRIMINAL LAW AND PROCEDURE

—Cont'd

Railroads —Cont'd

- Operation and maintenance —Cont'd
 - Unsafe tracks, bridges, etc., §23-12-103.
 - Use of track as highway, §23-12-803.
 - Willful interference with railroads, §23-12-805.
- Passenger trains to depart from depot at junction, §§23-10-204, 23-10-206.
- Protection of passengers, §23-10-207.
- Rates and charges, §23-4-605.
 - False reports regarding receipt of money, §23-4-636.
- Schedule of rates, §23-4-604.

Savings and loan associations.

- Cease and desist orders.
- Failure to obey, §23-37-212.

Securities.

- Fraud, §23-42-104.
- Offer or sale of unregistered and nonexempt securities, §23-42-104.
- Violation of commissioner's rule or order, §23-42-104.

Subpoenas.

- General provisions.
- See SUBPOENAS.

Telephone and telegraph companies.

- Divulging contents or refusal to transmit message, §23-17-109.

Title insurance.

- Agent licenses.
- Criminal enforcement of provisions, §23-103-103.

Trust companies.

- Acquisition violations, §23-51-139.
- Conflicts of interest, §23-51-145.
- Falsification of information, §23-51-144.
- Reports of apparent crimes, §23-51-149.

Viatical settlements, §23-81-613.**CROPS.****Agriculture generally.**

- See AGRICULTURE.

CROSSINGS.**Railroads.**

- See RAILROADS.

CUSTODIANS.**Fiduciaries generally.**

- See FIDUCIARIES.

CUSTOMER-BANK

COMMUNICATION TERMINALS,
§§23-48-801 to 23-48-810.

See AUTOMATIC TELLER MACHINES.

D**DAMAGES.****Eminent domain.**

- General provisions.
- See EMINENT DOMAIN.

Insurance.

- Health insurance.
 - Primary eye care providers.
 - Remedies for violations, §23-99-305.
- Unauthorized insurers.
 - Actions against unauthorized insurers, §23-65-205.

Loan brokers.

- Advance fee loan brokers.
- Violations of subchapter, §23-39-405.

Mortgages and deeds of trust.

- Home loan protection act.
- High-cost home loans.
- Liability for violations, §23-53-106.

Motor vehicles.

- Damage to motor vehicles in transit to dealers, §§23-112-701 to 23-112-706.

See MOTOR VEHICLES.

Licenses.

- Dealers, distributors, manufacturers and salespersons.
- Pecuniary loss from failure to comply with provisions, §23-112-105.

Underinsured motorists, §23-89-209.

Pain and suffering.

- Mental anguish.
- Telephone and telegraph companies, §23-17-112.

Public utilities.

- Franchises.
 - Municipal franchises.
 - Violation, §23-3-116.

Punitive damages.

- Underinsured motorists.
- Tentative settlement agreement, §23-89-209.

Railroads.

- See RAILROADS.

Savings and loan associations.

- Limitation on right to recover damages from association, §23-37-507.

Telephone and telegraph companies.

- Mental anguish.
- Negligence in receiving, transmitting or delivering messages, §23-17-112.

DAMAGES —Cont'd**Underinsured motorists**, §23-89-209.**Water power companies.**

Eminent domain, §23-18-406.

Land flooded or taken.

Assessment of damages by court,
§23-18-405.**DAMS.****Water power companies.**Erection of dams to develop electric
power, §23-18-402.

Time to begin work, §23-18-404.

Railroad in connection with
construction of dams.

Acquisition of right of way.

Eminent domain, §23-18-407.

Use of power.

Application for permit to use,
§23-18-403.

Compensation, §23-18-403.

DEAF PERSONS.**Telecommunications devices.**

Telephone and telegraph companies.

Surcharges to provide
telecommunications for deaf and
hearing impaired, §23-17-119.**DEATH.****Certificates of deposit.**

Agency designation.

Termination, §23-32-504.

Decedents' estates.

See DECEDENTS' ESTATES.

Fraternal benefit societies.Contractual benefits provided by
societies.

Death benefits, §23-74-401.

Railroads.

Employees.

Liability for injury or death of
employee, §§23-12-501 to
23-12-507.

See RAILROADS.

Liability.

Contributory negligence no complete
defense, §23-12-904.**DEBIT CARDS.****Automatic teller machines.**

Sharing of terminals, §23-32-208.

Fees.

Usage fee, §23-32-208.

DEBTS.**Insurance.**Creditor-placed insurance,
§§23-101-101 to 23-101-114.See CREDITOR-PLACED
INSURANCE.**DEBTS —Cont'd****Rural telephone cooperatives.**Nonliability of members and
shareholders, §23-17-233.**DECEDENTS' ESTATES.****Actions.**Rural telecommunications
cooperatives, §23-17-238.**Claims.**

Actions.

Rural telecommunications
cooperatives, §23-17-238.**Franchises.**

Motor vehicle franchises, §23-112-403.

Funerals.

Generally.

See FUNERALS.

Indemnification.

Generally.

See INDEMNIFICATION.

Motor vehicle franchises,

§23-112-403.

**Rural telecommunications
cooperatives.**

Actions, §23-17-238.

DECEIT.**Fraud generally.**

See FRAUD.

DEEDS.**Mortgages and deeds of trust.**

General provisions.

See MORTGAGES AND DEEDS OF
TRUST.**DEFAULTS.****Industrial loan institutions.**

Payment of installments, §23-36-112.

Late charges, §23-36-112.

DEFENSES.**Insurance.**

Health insurance.

Time limit on certain defenses,
§23-85-107.

Unauthorized insurers.

Actions against, §23-65-205.

DEFINED TERMS.**Access line.**Telecommunications regulatory reform,
§23-17-403.**Access minute.**

Telecommunications, §23-17-403.

Accident and health insurance,
§23-62-103.**Account.**Agency designation on certificates of
deposit, §23-32-501.

DEFINED TERMS —Cont'd**Account —Cont'd**

- Certificates of deposit, §23-47-301.
- Life and health insurance guarantee association, §23-96-104.
- Trust companies, §23-51-102.

Account current.

- Insurance producers, §23-64-232.

Account rendered.

- Insurance producers, §23-64-232.

Accredited state.

- Business transacted with producer controlled property and casualty insurer, §23-63-1102.

Acquire.

- Electric cooperative corporations, §23-18-302.
- Regional savings and loan act, §23-37-802.
- Rural telecommunications cooperatives, §23-17-202.

Acquiring party.

- Public utilities, §23-3-302.

Acquiring person.

- Domestic stock and mutual insurers, §23-69-142.

Acquisition.

- Insurance holding company regulation, §23-63-525.

Acquisition of an interstate branch.

- Banks, §23-48-901.

Act as a fiduciary.

- Trust companies, §23-51-102.

Actual cash value (ACV).

- Creditor-placed insurance, §23-101-103.

Actual malice.

- Fraudulent insurance acts, §23-66-501.

Actuarial certification.

- Small employer health insurance, §23-86-202.

Actuary.

- Insurance managing general agents, §23-64-402.
- Reinsurance intermediaries, §23-62-402.

Acute condition.

- Health insurance consumer protection, §23-99-403.

Adjusted RBC report.

- Risk-based capital act, §23-63-1302.
- Risk-based capital requirements for health organizations, §23-63-1501.

Adjuster.

- Insurance, §23-64-102.

Administer.

- Trust companies, §23-51-102.

DEFINED TERMS —Cont'd**Admitted assets.**

- Insurance company investments, §23-63-805.

Advance fee.

- Loan brokers, §23-39-401.

Adverse action.

- Use of credit information in personal insurance act, §23-67-404.

Advertisement.

- Motor vehicle manufacturers, dealers, etc., §23-112-103.

Advertising.

- Public utilities.
- Rates and charges, §23-4-207.
- Viatical settlements, §23-81-602.

Advisory organization.

- Rates and rating organizations, §23-67-202.

Affiliate.

- Banks, §§23-45-102, 23-48-105.
- Home loan protection act, §23-53-103.
- Insurance holding company regulation, §23-63-503.
- Insurance sales consumer protection, §23-66-603.
- Loan brokers.
- Prohibition of advance fee loan brokerage, §23-39-401.
- Public utilities, §23-3-302.
- Telecommunications regulatory reform, §23-17-403.
- Trust companies, §23-51-102.
- Use of credit information in personal insurance act, §23-67-404.

Affiliated.

- Insurance holding company regulation, §23-63-503.

Affiliated bank.

- Subsidiary trust companies, §23-47-801.

Affiliated company.

- Captive insurance companies, §23-63-1601.
- Light, heat and power utilities, §23-18-103.

Affiliation period.

- Health insurance portability and accountability, §23-86-303.

Agent.

- Certificates of deposit, §§23-32-501, 23-47-301.
- Check sales, §23-41-102.
- Comprehensive health insurance pool, §23-79-503.
- Health maintenance organizations, §23-76-120.
- Insurance, §23-64-102.

DEFINED TERMS —Cont'd**Agent —Cont'd**

Securities, §23-42-102.

Aggregate amounts.Insurance company investments,
§23-63-805.**Aggregate individually underwritten
policy experience.**Health insurance, group, conversion
policies, §23-86-115.**AICCLP member.**

Telecommunications, §23-17-403.

AICCLP rate adjustment.

Telecommunications, §23-17-403.

Air commerce, §23-14-102.**Aircraft.**

Air commerce, §23-14-102.

**Alcohol or drug dependency
treatment facility.**

Insurance policies, §23-79-139.

Alien.

Insurance, §23-60-102.

**Alien captive insurance company,
§23-63-1601.****All-terrain vehicle.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Amusement attraction.**

Casualty insurance, §23-89-502.

Amusement ride.

Casualty insurance, §23-89-502.

Ancillary state.Insurance company rehabilitation and
liquidation, §23-68-102.**Annual percentage rate.**

Home loan protection act, §23-53-103.

Antiarson application.

Property insurance, §23-88-202.

Applicable law.

Banks, §23-45-106.

Applicant.

Long-term care insurance, §23-97-203.

Medicare supplement insurance
minimum standards, §23-79-403.Use of credit information in personal
insurance act, §23-67-404.Utility facility environmental and
economic protection, §23-18-503.**Appraisal.**

Credit unions.

Loans and extensions of credit in
advance, §23-35-603.**Arkansas associations.**Regional savings and loan act,
§23-37-802.**Arkansas bank, §23-45-102.****Arkansas bank holding company,
§23-45-102.****DEFINED TERMS —Cont'd****Arkansas banking code, §23-45-102.****Arkansas intraLATA toll pool.**Telecommunications regulatory reform,
§23-17-403.**Arkansas intrastate carrier common
line pool.**Telecommunications regulatory reform,
§23-17-403.**Arkansas intrastate****telecommunications, §23-17-403.****Arkansas savings and loan holding
company.**Regional savings and loan act,
§23-37-802.**Assignment.**

Securities regulation, §23-42-307.

Association.Captive insurance companies,
§23-63-1601.Life and health insurance guaranty
association, §23-96-104.Regional savings and loan act,
§23-37-802.Savings and loan associations,
§23-37-101.**Association captive insurance
company, §23-63-1601.****Assumptions.**Bank mergers, conversions or other
corporate actions, §23-48-501.**Attorney.**

Reciprocal insurers, §23-70-101.

Authorized assessment.Life and health insurance guaranty
association, §23-96-104.**Authorized control level event.**Risk-based capital requirements for
health organizations, §23-63-1505.**Authorized control level RBC.**

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.**Authorized insurer, §23-60-102.****Authorized trust institutions,
§23-51-102.****Auto auction.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.Used motor vehicle buyer protection,
§23-112-602.**Automobile club or association,
§23-77-101.****Automobile collision coverage.**

Casualty insurance, §23-89-301.

Automobile liability coverage.

Casualty insurance, §23-89-301.

DEFINED TERMS —Cont'd**Automobile physical damage coverage.**

Casualty insurance, §23-89-301.

Avoided cost.

Public utilities, §23-3-702.

Baggage.

Carriers of passengers, §23-10-209.

Bail bond service.

Automobile clubs or associations,
§23-77-101.

Bank, §23-45-102.

Trust companies, §23-51-102.

Bankers.

Financial institutions, §23-32-209.

Bank holding company, §23-45-102.

Bank mergers, conversions or other
corporate actions, §23-48-501.

Bank premises, §23-45-102.**Bank service companies.**

Bank subsidiaries, §23-47-603.

Bank services.

Bank subsidiaries, §23-47-603.

Bank subsidiary.

Bank holding companies, §23-48-401.

Bank supervisory agency, §23-45-102.

Trust companies, §23-51-102.

Base premium rate.

Small employer health insurance,
§23-86-202.

Basic local exchange service.

Telecommunications regulatory reform,
§23-17-403.

Beneficiary.

Certificates of deposit, §§23-32-501,
23-47-301.

Benefit contract.

Fraternal benefit societies, §23-74-104.

Benefit level.

Freedom of choice among health
benefit plans, §23-86-406.

Benefit member.

Fraternal benefit societies, §23-74-104.

Benefit plan.

Life and health insurance guaranty
association, §23-96-104.

Blanket accident and health insurance.

Group and blanket health insurance,
§23-86-101.

Blanket insurance.

Creditor-placed insurance,
§23-101-103.

Blind.

Insurance trade practices.

Home service system of distribution,
§23-66-402.

DEFINED TERMS —Cont'd**Bona fide association.**

Health insurance portability and
accountability, §23-86-303.

Bona fide loan discount points.

Home loan protection act, §23-53-103.

Bona fide taxicab service.

Motor carriers, §23-13-206.

Border communities.

Insurance, §23-64-102.

Border trade areas.

Insurance, §23-64-102.

Borrower.

Loan brokers.

Prohibition of advance fee loan
brokerage, §23-39-401.

Boycott, coercion and intimidation.

Trade practices, §23-66-206.

Branch.

Trust companies, §23-51-102.

Branch business.

Captive insurance companies,
§23-63-1601.

Branch location.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Branch manager.

Fair mortgage lending act, §23-39-502.

Branch office.

Fair mortgage lending act, §23-39-502.
Regional savings and loan act,
§23-37-802.

Branch operations.

Captive insurance companies,
§23-63-1601.

Broker.

Insurance, §23-64-102.

Motor carriers, §23-13-203.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Savings and loan associations,
§23-37-101.

Broker-dealer.

Securities, §23-42-102.

Bucket shop, §23-44-101.**Building and loan association,**
§23-38-101.**Burial association, §23-78-101.****Business entity.**

Insurance producer licensing,
§23-64-502.

Title insurance, agents licensing,
§23-103-102.

Business of insurance.

Fraudulent insurance acts, §23-66-501.

Business of viatical settlements,
§23-81-602.

DEFINED TERMS —Cont'd**Buying and selling service.**

Automobile clubs or associations,
§23-77-101.

Called assessment.

Life and health insurance guaranty
association, §23-96-104.

Call option.

Insurance company investments,
§23-63-838.

Capital.

Trust companies, §23-51-102.

Capital base.

Banks, §§23-45-102, 23-48-310.
Trust companies, §23-51-102.

Capital development corporation.

Banks, §23-45-102.

Captive insurance company,
§23-63-1601.**Carrier.**

Freight, §23-10-402.
Small employer health insurance,
§23-86-202.

**Carrier common line revenue
requirement.**

Telecommunications, §23-17-403.

Carve-out arrangement.

Health insurance coverage for mental
illness, §23-99-503.

Case characteristics.

Small employer health insurance,
§23-86-202.

Cash accommodation items.

Prepaid funeral benefits, §23-40-103.

Casualty insurance, §23-62-105.

Insurance policies.
Simplification, §23-80-303.

CBCT.

Automatic teller machines, §23-48-801.

Certificate.

Fraternal benefit societies, §23-74-104.
Long-term care insurance, §23-97-203.
Medicare supplement insurance
minimum standards, §23-79-403.
Motor carriers, §23-13-203.

Certificate form.

Medicare supplement insurance
minimum standards, §23-79-403.

Certificate of extension project.

Gas utilities, §23-3-602.

Charter.

Trust companies, §23-51-102.

Check.

Check-cashers, §23-52-102.
Sale of checks, §23-41-102.

Check-casher, §23-52-102.**Check-cashing business,** §23-52-102.**DEFINED TERMS —Cont'd****Chemotherapy.**

Health insurance, outpatient coverage,
§23-85-133.

**Children's preventive health care
services.**

Minimum basic benefit policies,
§23-98-102.

Chronically ill.

Viatical settlements, §23-81-602.

Church plan.

Comprehensive health insurance pool,
§23-79-503.

Health insurance portability and
accountability, §23-86-303.

Churning of business.

Trade practices, §23-66-206.

Claimant.

Late payment of claims by health
carriers, §23-66-215.

Claims-made policy.

Insurance policies.
Commercial property and casualty
insurance, §23-79-302.

Class.

Health insurance, group, conversion
policies, §23-86-115.

Class of business.

Small employer health insurance,
§23-86-202.

**Class one money market mutual
fund.**

Domestic stock and mutual insurers,
§23-69-134.

CLEC.

Telecommunications regulatory reform,
§23-17-403.

Client.

Professional employer organizations,
§23-92-402.
Trust companies, §23-51-102.

Closing of a loan.

Loan brokers.
Prohibition of advanced fee loan
brokerage, §23-39-401.

COBRA.

Insurance.
Minimum basic benefit policies,
§23-98-102.

COBRA continuation provision.

Health insurance portability and
accountability, §23-86-303.

Coemployer.

Professional employer organizations,
§23-92-402.

Coemployment relationship.

Professional employer organizations,
§23-92-402.

DEFINED TERMS —Cont'd**Coerce.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Collateral.

Creditor-placed insurance,
§23-101-103.

Commence to construct.

Utility facility environmental and
economic protection, §23-18-503.

Commercial mobile service.

Telecommunications regulatory reform,
§23-17-403.

Commercial risk.

Rates and rating organizations,
§23-67-202.

Commercial zone.

Motor carriers, §23-13-203.

Commitment.

Title insurance, agents licensing,
§23-103-102.

Common carrier.

Uninsured motorist liability insurance,
§23-16-301.

Common carrier by aircraft,

§23-14-102.

Common carrier by motor vehicle,

§23-13-203.

Common ownership and control.

Captive insurance companies,
§23-63-1614.

Company.

Bank holding companies, §§23-45-102,
23-48-401.

Public service commission, §23-3-120.

Public utilities, §23-2-302.

Regional savings and loan act,
§23-37-802.

Simplification of insurance policies,
§23-80-203.

Trust companies, §23-51-102.

Company action level event.

Risk-based capital requirements for
health organizations, §23-63-1503.

Company action level RBC.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

Compensation.

Credit life and disability insurance,
§23-87-117.

Competing local exchange carrier.

Telecommunications regulatory reform,
§23-17-403.

Competitive market.

Rates and rating organizations,
§23-67-202.

DEFINED TERMS —Cont'd**Complaint.**

Trade practices, §23-66-206.

Completed operations liability.

Liability risk retention, §23-94-203.

Construction.

Horse racing, disposition of wagering
proceeds, §23-110-407.

Consumer.

Use of credit information in personal
insurance act, §23-67-404.

Consumer loans and credit sales.

Banks, §23-47-501.

Consumer reporting agency.

Use of credit information in personal
insurance act, §23-67-404.

Continuation coverage.

Comprehensive health insurance pool,
§23-79-503.

Continuing care.

Continuing care provider regulation,
§23-93-103.

Contract.

Property insurance, §23-88-203.

Contract beneficiary.

Prepaid funeral benefits, §23-40-103.

Contract carrier by motor vehicle,

§23-13-203.

Contract for sale.

Commodities futures, §23-44-101.

Contract owner.

Life and health insurance guaranty
association, §23-96-104.

Contract price.

Prepaid funeral benefits, §23-40-103.

Contract proceeds.

Prepaid funeral benefits, §23-40-103.

Contractual obligation.

Life and health insurance guarantee
association, §23-96-104.

Professional liability insurance,
§23-91-203.

Control.

Banks, §§23-48-105, 23-48-901.

Fair mortgage lending act, §23-39-502.

Insurance holding company regulation,
§23-63-503.

Public utilities, §23-3-302.

Trust companies, §23-51-102.

Controlled by.

Insurance holding company regulation,
§23-63-503.

Controlled insurer.

Business transacted with producer
controlled property and casualty
insurer, §23-63-1102.

Controlled unaffiliated business.

Captive insurance companies,
§23-63-1601.

DEFINED TERMS —Cont'd**Controlling.**

Insurance holding company regulation,
§23-63-503.

Controlling person.

Professional employer organizations,
§23-92-402.

Reinsurance intermediaries,
§23-62-402.

Controlling producer.

Business transacted with producer
controlled property and casualty
insurer, §23-63-1102.

Conversion.

Motor vehicle manufacturers and
dealers, §23-112-103.

Converters.

Motor vehicle manufacturers and
dealers, §23-112-103.

Converting bank.

Bank mergers, conversions or other
corporate actions, §23-48-501.

Cooperative.

Rural telecommunications
cooperatives, §23-17-202.

**Co-op rural electric distribution
cooperatives, §23-4-901.****Copayment.**

Patient protection act, §23-99-203.

Corporate action.

Banks, §23-48-506.

Corporation.

Electric cooperative corporations,
§23-18-302.

Public service commission, §23-3-120.

Public utilities, §23-1-101.

Corrective order.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

Cost-of-service recovery.

Gas utilities, §23-3-602.

Court.

Banks, §23-45-102.

Covered claim.

Property and casualty insurance
guarantee, §23-90-103.

Covered employee.

Professional employer organizations,
§23-92-402.

Covered health care services.

Freedom of choice among health
benefit plans, §23-86-406.

Covered person.

Comprehensive health insurance pool,
§23-79-503.

Dental point of service option,
§23-99-603.

DEFINED TERMS —Cont'd**Covered person —Cont'd**

Freedom of choice among health
benefit plans, §23-86-406.

Health insurance consumer protection,
§23-99-403.

Prescription drug card uniformity,
§23-80-402.

Primary eye care provider act,
§23-99-302.

Covered policy.

Life and health insurance guarantee
association, §23-96-104.

Covered securities, §23-42-102.**Covered service.**

Primary eye care provider act,
§23-99-302.

Creditable coverage.

Comprehensive health insurance pool,
§23-79-503.

Health insurance portability and
accountability, §23-86-303.

Credit agreement.

Creditor-placed insurance,
§23-101-103.

Credit history.

Trade practices, §23-66-317.

Credit information.

Use of credit information in personal
insurance act, §23-67-404.

**Credit life and disability insurance,
§23-87-103.****Credit life insurance, §23-87-103.****Creditor.**

Credit life and disability insurance,
§23-87-103.

Creditor-placed insurance,
§23-101-103.

Home loan protection act, §23-53-103.

Creditor-placed insurance,

§23-101-103.

Credit report.

Use of credit information in personal
insurance act, §23-67-404.

Credit score.

Use of credit information in personal
insurance act, §23-67-404.

Credit transaction.

Creditor-placed insurance,
§23-101-103.

Customarily collected.

Home service system of distribution,
§23-66-402.

**Customarily marketed, issued or
delivered.**

Home service system of distribution,
§23-66-402.

DEFINED TERMS —Cont'd**Customer.**

Insurance sales consumer protection,
§23-66-603.

Customer-bank communication terminals, §23-48-801.**Data development period.**

Telecommunications, §23-17-403.

Day.

Banks, §23-45-102.

Debtor.

Credit life and disability insurance,
§23-87-103.

Creditor-placed insurance,
§23-101-103.

Deceit.

Securities, §23-42-102.

Defamation.

Trade practices, §23-66-206.

Deferred presentment option.

Check-cashers, §23-52-102.

Defraud.

Securities, §23-42-102.

Delinquency proceeding.

Insurance company rehabilitation and
liquidation, §23-68-102.

Delivery.

Motor vehicle manufacturers, dealers,
etc., §23-112-701.

De novo charter.

Banks, §23-45-102.

Savings and loan associations,
§23-37-404.

De novo interstate branch.

Banks, §23-48-901.

Dentist.

Dental point of service option,
§23-99-603.

Department regulations.

Banks, §23-45-102.

Dependent.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Deposit account.

Banks, §23-45-102.

Depository institution.

Banks, §23-45-102.

Insurance sales consumer protection,
§23-66-603.

Trust companies, §23-51-102.

Deposits.

Banks, §23-45-102.

Regional savings and loan act,
§23-37-802.

Designate.

Financial institutions, §23-32-207.

DEFINED TERMS —Cont'd**Designate in writing.**

Financial institutions, §23-32-207.

Designation.

Financial institutions, §23-32-207.

Developmental disorders.

Health insurance coverage for mental
illness, §23-99-503.

Devisee.

Agency designation on certificates of
deposit, §23-32-501.

Certificates of deposit, §23-47-301.

Diabetes self-management training.

Insurance coverage, §23-79-601.

Diagnostic mammography.

Insurance policies, §23-79-140.

Direct reimbursement.

Insurance coverage for ambulance
services, §23-79-148.

Disability insurance.

Genetic nondiscrimination in
insurance act, §23-66-320.

Discount service.

Automobile clubs or associations,
§23-77-101.

Dissenters' rights.

Bank mergers, conversions or other
corporate actions, §23-48-501.

Distributor.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Distributor branch.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Distributor representative.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Divisible surplus.

Life insurance policies and annuities,
§23-81-108.

DNA.

Genetic nondiscrimination in
insurance act, §23-66-320.

Domestic association.

Building and loan associations,
§23-38-101.

Domestic corporation.

Health maintenance organizations,
§23-76-102.

Domestic health organization.

Risk-based capital requirements,
§23-63-1501.

Domestic insurer, §23-60-102.

Protected cell company act,
§23-63-1703.

Risk-based capital act, §23-63-1302.

Domestic public utility.

Merger or acquisition of control,
§23-3-302.

DEFINED TERMS —Cont'd**Domicile.**

Liability risk retention, §23-94-203.

Domiciliary state.

Insurance company rehabilitation and liquidation, §23-68-102.

Drafter.

Used motor vehicle buyer protection, §23-112-602.

Durable equipment.

Insurance company investments, §23-63-827.

Electing company.

Telecommunications regulatory reform, §23-17-403.

Electric utility.

Renewable energy development, §23-18-603.

Electronic funds transfer.

Financial institutions, §23-32-210.

Eligible applicants.

Motorcoach incentive act, §23-13-503.

Eligible employee.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Eligible employer.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Eligible individual.

Health insurance portability and accountability, §23-86-303.

Eligible telecommunications carrier,
§23-17-403.**Embedded investment.**

Telecommunications regulatory reform, §23-17-403.

Emergency road service.

Automobile clubs or associations, §23-77-101.

Employee.

Fair mortgage lending act, §23-39-502.

Health insurance, franchise plan, §23-85-101.

Health insurance, group accident and health insurance, §23-86-106.

Health insurance portability and accountability, §23-86-303.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Hospital and medical service corporations, §23-75-104.

Employer.

Health insurance portability and accountability, §23-86-303.

DEFINED TERMS —Cont'd**Employer —Cont'd**

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Employer contribution rule.

Health insurance portability and accountability, §23-86-303.

Employer service assurance organization.

Professional employer organizations, §23-92-402.

Energy conservation programs and measures.

Public utilities, §23-3-403.

Energy-efficient.

Utility facility environmental and economic protection, §23-18-503.

Engaged in transporting persons or property.

Railroads and express companies, §23-4-701.

Engage in the business of buying, selling or exchanging new motor vehicles.

Motor vehicle manufacturers, dealers, etc., §23-112-301.

Enrollee.

Health maintenance organizations, §23-76-102.

Enrollment date.

Health insurance portability and accountability, §23-86-303.

Entity.

Health insurance consumer protection, §23-99-403.

Health insurance coverage for mental illness, §23-99-503.

Entrance fee.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Equity capital.

Trust companies, §23-51-102.

Equity security.

Investor protection takeover act, §23-43-102.

Stock insurers, inside trading, §23-69-201.

Trust companies, §23-51-102.

Event.

Arkansas earthquake authority act, §23-102-103.

Evidence of coverage.

Health maintenance organizations, §23-76-102.

Excepted benefits.

Health insurance portability and accountability, §23-86-310.

DEFINED TERMS —Cont'd**Excess expenditures.**

Gas utilities, §23-3-602.

Excess or stop loss coverage.Comprehensive health insurance pool,
§23-79-503.**Exempt person.**

Fair mortgage lending act, §23-39-502.

Exempt wholesale generator.

Public utilities, §23-1-101.

Existing law.

Banks, §23-45-106.

Exiting ILEC.

Telecommunications, §23-17-403.

Exogenous change.

Telecommunications, §23-17-407.

Experience period.

Insurance policies, §23-79-110.

Extended area service.

Telecommunications, §23-17-403.

Extension of credit.

Trust companies, §23-51-102.

Extension project.

Gas utilities, §23-3-602.

Extra-contractual claims.Life and health insurance guaranty
association, §23-96-104.**Eye and/or vision care benefits.**Primary eye care providers,
§23-99-302.**Facilities.**Continuing care providers,
§§23-93-103, 23-93-201.Telecommunications regulatory reform,
§23-17-403.**Factory branch.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Factory representative.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Failure to maintain complaint
handling procedures.**

Trade practices, §23-66-206.

**Failure to maintain conflict of
interest procedures.**

Trade practices, §23-66-206.

Fair value.Protected cell company act,
§23-63-1703.**False information and advertising
generally.**

Trade practices, §23-66-206.

False statements and entries.

Trade practices, §23-66-206.

Family or household member.

Private trust companies, §23-51-118.

DEFINED TERMS —Cont'd**Farm cooperative.**

Securities, §23-42-102.

Farmer.

Mutual aid associations, §23-73-101.

FCC.Telecommunications regulatory reform,
§23-17-403.**Feasibility study.**

Liability risk retention, §23-94-203.

Federal act.Telecommunications regulatory reform,
§23-17-403.**Federal agency.**Electric cooperative corporations,
§23-18-302.Rural telecommunications
cooperatives, §23-17-202.**Federal association.**Regional savings and loan act,
§23-37-802.Savings and loan associations,
§23-37-101.**Federal deposit insurance agency.**Bank dissolution and liquidation,
§23-49-101.**Federal financial institutions
regulatory agencies.**

Banks, §23-45-102.

Federal governmental plan.Health insurance portability and
accountability, §23-86-303.**Federally eligible individual.**Comprehensive health insurance pool,
§23-79-503.**Fictitious grouping.**

Trade practices, §23-66-304.

Fiduciary record.

Trust companies, §23-51-102.

Final judgment.Insurance company deposits,
§23-63-909.**Financial futures contract.**Insurance company investments,
§23-63-838.**Financial institution.**Agency designation on certificates of
deposit, §23-32-501.

Banks, §23-45-102.

Financial requirements.Health insurance coverage for mental
illness, §23-99-503.**Financial services.**Automobile clubs or associations,
§23-77-101.**Financing entity.**

Viatical settlements, §23-81-602.

DEFINED TERMS —Cont'd**Fiscal year.**

Check sales, §23-41-102.

Fixed carrier common line revenue shortfall.

Telecommunications, §23-17-403.

Fixed ILEC retail billed minutes of use.

Telecommunications, §23-17-403.

Flipping.

Home loan protection act, §23-53-104.

Foreign association.

Building and loan associations,
§23-38-101.

Savings and loan associations,
§23-37-101.

Foreign bank card.

Automatic teller machines,
§§23-32-208, 23-48-810.

Foreign country.

Insurance company rehabilitation and liquidation, §23-68-102.

Foreign decree.

State insurance department,
§23-61-111.

Foreign health organization.

Risk-based capital requirements,
§23-63-1501.

Foreign insurer, §23-60-102.

Risk-based capital act, §23-63-1302.

Format.

Medicare supplement insurance minimum standards, §23-79-406.

Fortuitous events.

Insurance, §23-60-102.

Franchise.

Motor vehicle manufacturers and dealers, §23-112-103.

Fraternal benefit society, §23-74-101.**Fraud.**

Securities, §23-42-102.

Fraudulent insurance act, §23-66-501.**Fraudulent viatical settlement act, §23-81-602.****Full service branches.**

Banks, §23-48-701.

Full time.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Fully funded.

Protected cell company act,
§23-63-1703.

Funding agreement.

Kinds of insurance, §23-62-109.

Gas.

Natural gas pipeline safety,
§23-15-203.

DEFINED TERMS —Cont'd**Gas utility, §23-3-602.****Gatekeeper.**

Primary eye care provider act,
§23-99-302.

Gatekeeper system.

Patient protection act, §23-99-203.

Primary eye care provider act,
§23-99-302.

General account.

Protected cell company act,
§23-63-1703.

General assets.

Insurance company rehabilitation and liquidation, §23-68-102.

Genetic information.

Genetic nondiscrimination in insurance act, §23-66-320.

Genetic test.

Genetic nondiscrimination in insurance act, §23-66-320.

Good faith.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Governmental plan.

Comprehensive health insurance pool,
§23-79-503.

Health insurance portability and accountability, §23-86-303.

Government entity.

Telecommunications regulatory reform,
§23-17-403.

Government money market mutual fund.

Domestic stock and mutual insurers,
§23-69-134.

Gross earnings.

Public utilities, §23-1-101.

Group accident and health insurance, §23-86-106.**Group health insurance coverage.**

Health insurance portability and accountability, §23-86-303.

Group health plan.

Comprehensive health insurance pool,
§23-79-503.

Health insurance portability and accountability, §23-86-303.

Group long-term care insurance, §23-97-203.**Group participation rule.**

Health insurance portability and accountability, §23-86-303.

Group tours.

Motorcoach incentive act, §23-13-503.

Guaranteed.

Securities, §23-42-102.

DEFINED TERMS —Cont'd**Guaranty or permanent stock**

building and loan association,
§23-38-101.

Hazardous conditions.

Trust companies, §23-51-102.

Hazardous financial condition.

Continuing care providers, §23-93-203.

Hazardous financially.

Insurance company rehabilitation and
liquidation, §23-68-102.

Health benefit plan.

Freedom of choice among health
benefit plans, §23-86-406.

Health insurance consumer choice,
§23-79-802.

Health insurance consumer protection,
§23-99-403.

Health insurance coverage for mental
illness, §23-99-503.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Patient protection act, §23-99-203.

Prescription drug card uniformity,
§23-80-402.

Primary eye care providers,
§23-99-302.

Small employer health insurance,
§23-86-202.

Health care insurer.

Diabetes coverage, §23-79-601.

Health insurance consumer protection,
§23-99-403.

Health insurance coverage for mental
illness, §23-99-503.

Primary eye care provider act,
§23-99-302.

Health care plan.

Health maintenance organizations,
§23-76-102.

Insurance, temporomandibular joint
disorder and craniomandibular
disorder coverage, §23-79-150.

Health care provider.

Freedom of choice among health
benefit plans, §23-86-406.

Patient protection act, §23-99-203.

Health care services.

Dental point of service option,
§23-99-603.

Grievance and quality assessment and
improvement systems, §23-99-702.

Health maintenance organizations,
§23-76-102.

Patient protection act, §23-99-203.

Tax credits for medically necessary
foods, §23-79-701.

DEFINED TERMS —Cont'd**Health carrier.**

Dental point of service option,
§23-99-603.

Drug enforcement administration
registry number protection,
§23-66-702.

Grievance and quality assessment and
improvement systems, §23-99-702.

Insurance, temporomandibular joint
disorder and craniomandibular
disorder coverage, §23-79-150.

Late payment of claims by health
carriers, §23-66-215.

Health insurance.

Comprehensive health insurance pool,
§23-79-503.

Health insurance contract.

Late payment of claims by health
carriers, §23-66-215.

Health insurance coverage.

Health insurance portability and
accountability, §23-86-303.

Health insurance issuer.

Health insurance portability and
accountability, §23-86-303.

Health insurance policy.

Diabetes coverage, §23-79-601.

Health insurance purchasing group.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

**Health insurance purchasing group
health carrier.**

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Health insurer.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Health maintenance organization,
§23-76-102.

Comprehensive health insurance pool,
§23-79-503.

Health insurance portability and
accountability, §23-86-303.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Health organization.

Risk-based capital requirements,
§23-63-1501.

Health plan.

Dental point of service option,
§23-99-603.

Tax credits for medically necessary
foods, §23-79-701.

DEFINED TERMS —Cont'd**Health professional.**

Health maintenance organizations,
§23-76-102.

Health status-related factor.

Health insurance portability and
accountability, §23-86-303.

High-cost home loan.

Home loan protection act, §23-53-103.

Highway.

Motor carriers, §23-13-203.

Home service system of distribution.

Insurance trade practices, §23-66-402.

Home state.

Banks, §23-45-102.

Insurance producer licensing,
§23-64-502.

Title insurance, agents licensing,
§23-103-102.

Home state regulator.

Banks, §23-45-102.

Hospital.

Comprehensive health insurance pool,
§23-79-503.

Hospital and medical service corporations, §23-75-101.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Host state.

Banks, §23-45-102.

Household goods carrier.

Motor carriers, §23-13-203.

ILEC Arkansas calling plan fund and extension of telecommunications facilities fund expense, §23-17-403.**ILEC intrastate carrier common line revenue requirement, §23-17-403.****Impaired capital.**

Banks, §23-48-312.

Impaired insurer.

Life and health insurance guarantee
association, §23-96-104.

Impaired or impairment.

Insurance company rehabilitation and
liquidation, §23-68-102.

Inactive signing title insurance agent, §23-103-102.**Incumbent local exchange carrier.**

Telecommunications regulatory reform,
§23-17-403.

Indebtedness.

Credit life and disability insurance,
§23-87-103.

Indemnity trigger.

Protected cell company act,
§23-63-1703.

DEFINED TERMS —Cont'd**Independent qualified real estate appraiser.**

Credit unions, §23-35-603.

Index rate.

Small employer health insurance,
§23-86-202.

Individual health insurance coverage.

Comprehensive health insurance pool,
§23-79-503.

Individual markets.

Health insurance portability and
accountability, §23-86-303.

Industrial insured.

Captive insurance companies,
§23-63-1601.

Industrial insured captive insurance company, §23-63-1601.**Industrial insured group.**

Captive insurance companies,
§23-63-1601.

Industrial loan institutions, §23-36-101.**Informational advertising.**

Public utility rates and charges,
§23-4-207.

Inherited metabolic disease.

Tax credits for medically necessary
foods, §23-79-701.

Insider.

Trust companies, §23-51-102.

Insolvency.

Insurance company rehabilitation and
liquidation, §23-68-102.

Insolvent.

Trust companies, §23-51-102.

Insolvent institution.

Bank dissolution and liquidation,
§23-49-101.

Insolvent insurer.

Life and health insurance guaranty
association, §23-96-104.

Property and casualty insurance
guaranty, §23-90-103.

Institution.

Bank dissolution and liquidation,
§23-49-101.

Banks, §23-48-105.

Insurance company investments,
§23-63-805.

Insurable interest.

Personal insurance, §23-79-103.
Property, §23-79-104.

Insurance, §23-60-102.

Consumer protection, §23-66-603.

Fraudulent insurance acts, §23-66-501.

Liability risk retention, §23-94-203.

DEFINED TERMS —Cont'd**Insurance —Cont'd**

Producer licensing, §23-64-502.

Insurance consultant, §23-64-102.

Insurance contract.

Trade practices, §23-66-203.

Insurance holding company system,
§23-63-503.

Insurance information.

Insurance sales consumer protection,
§23-66-603.

Insurance policy.

Cancer prescription medication,
§23-79-147.

Prescription drug benefits, §23-79-149.

Property insurance, §23-88-203.

Trade practices, §23-66-203.

Insurance producer, §§23-64-232,
23-64-502.

Insurance service.

Automobile clubs or associations,
§23-77-101.

Insurance tracking.

Creditor-placed insurance,
§23-101-103.

Insured.

Minimum basic benefit policies,
§23-98-102.

Insurer, §23-60-102.

Arkansas earthquake authority act,
§23-102-103.

Business transacted with producer
controlled property and casualty
insurer, §23-63-1102.

Comprehensive health insurance pool,
§23-79-503.

Creditor-placed insurance,
§23-101-103.

Fraudulent insurance acts, §23-66-501.

Genetic nondiscrimination in
insurance act, §23-66-320.

Health insurance consumer protection,
§23-99-403.

Holding company regulation,
§§23-63-503, 23-63-528.

Insurance producers, §§23-64-232,
23-64-502.

Investment authority, §23-63-825.

Managing general agents, §23-64-402.

Minimum basic benefit policies,
§23-98-102.

Professional liability insurance,
§23-91-203.

Property and casualty insurance
guaranty, §23-90-103.

Rehabilitation and liquidation,
§23-68-102.

DEFINED TERMS —Cont'd**Insurer —Cont'd**

Reinsurance intermediaries,
§23-62-402.

Rural risk underwriting, §23-88-302.

Simplification of insurance policies,
§23-80-203.

Interested parties.

Motor carriers, §23-13-203.

Interexchange carriers.

Universal telephone service,
§23-17-303.

Interexchange communication services.

Universal telephone service,
§23-17-303.

Intermediate stock holding company.

Mutual insurance holding companies,
§23-69-303.

Interstate access charge pools.

Telecommunications regulatory reform,
§23-17-403.

Interstate merger transactions.

Banks, §23-45-102.

Interstate transmission facilities.

Natural gas pipeline safety,
§23-15-203.

Intoxicated.

Amusement ride operators, §23-89-511.

Investment advisor.

Securities, §23-42-102.

Investment company act of 1940,
§23-42-102.**Investment securities.**

Trust companies, §23-51-102.

Investor companies.

Foreign investor companies,
§23-32-401.

Involved insurer.

Insurance holding company regulation,
§23-63-525.

Irregular route.

Motor carriers, §23-13-203.

Issuer.

Medicare supplement insurance
minimum standards, §23-79-403.

Public utilities.

Merger or acquisition of control,
§23-3-302.

Securities, §23-42-102.

Issuing.

Check sales, §23-41-102.

Issuing title insurance agent,
§23-103-102.**Laboratory and pathological tests.**

Health insurance, outpatient coverage,
§23-85-133.

DEFINED TERMS —Cont'd**Land.**

Light, heat and power utilities,
§23-18-528.

Lapse.

Creditor-placed insurance,
§23-101-103.

Large employer.

Health insurance portability and
accountability, §23-86-303.

Large group.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Large-group market.

Health insurance portability and
accountability, §23-86-303.

Late enrollee.

Health insurance portability and
accountability, §23-86-303.

Law.

Fraternal benefit society, §23-74-104.

Lease.

Motor carriers, §23-13-203.

Legal insurance.

Professional liability insurance,
§23-91-203.

Legal service.

Automobile clubs or associations,
§23-77-101.

Liability.

Liability risk retention, §23-94-203.

License.

Insurance producers, §23-64-502.

Motor carriers, §23-13-203.

Trust companies, §23-51-102.

Licensed insurer.

Business transacted with producer
controlled property and casualty
insurer, §23-63-1102.

Licensed location.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Used motor vehicle buyer protection,
§23-112-602.

Licensed producer.

Reinsurance intermediaries,
§23-62-402.

Licensee.

Check sales, §23-41-102.

Fair mortgage lending act, §23-39-502.

Prepaid funeral services, §23-40-103.

Professional employer organizations,
§23-92-402.

Life and/or accident and health insurer.

Risk-based capital act, §23-63-1302.

DEFINED TERMS —Cont'd**Life care.**

Continuing care providers, §23-93-201.

Life insurance, §23-62-102.**Limited dual interest insurance.**

Creditor-placed insurance,
§23-101-103.

Limited license.

Insurance, §23-64-202.

Limited line credit insurance.

Insurance producers, §23-64-502.

Limited line credit insurance

producer, §23-64-502.

Limited lines insurance.

Insurance producers, §23-64-502.

Limited lines producer, §23-64-502.**Limited network plan.**

Freedom of choice among health
benefit plans, §23-86-406.

Liquid investments.

Prepaid funeral benefits, §23-40-103.

Living unit.

Continuing care providers,
§§23-93-103, 23-93-201.

Loan broker.

Prohibition of advance fee loan
brokerage, §23-39-401.

Loan officer.

Fair mortgage lending act, §23-39-502.

Loans and extensions of credit.

Trust companies, §23-51-102.

Local exchange area.

Telecommunications regulatory reform,
§23-17-403.

Local exchange carrier.

Telecommunications regulatory reform,
§23-17-403.

Universal telephone service,
§23-17-303.

Locomotive.

First aid kits and drinking water,
§23-12-405.

Lodge.

Fraternal benefit societies, §23-74-104.

Long-term care insurance,

§23-97-203.

Loss development.

Rates and rating organizations,
§23-67-202.

Loss or impairment of speech or hearing.

Insurance policies, §23-79-130.

Loss ratio.

Creditor-placed insurance,
§23-101-103.

Insurance.

Minimum basic benefit policies,
§23-98-102.

DEFINED TERMS —Cont'd**Loss ratio —Cont'd**

Insurance policies, §23-79-110.

Loss trending.

Rates and rating organizations,
§23-67-202.

Lower grade obligations.

Insurance company investments,
§23-63-805.

Low protein modified food product.

Tax credits for medically necessary
foods, §23-79-701.

Main banking office.

Banks, §23-45-102.

Main office.

Banks, §23-45-102.

Major utility facility.

Environmental and economic
protection, §23-18-503.

Make a mortgage loan.

Fair mortgage lending act, §23-39-502.

Mammography.

Insurance policies, §23-79-140.

Managed care plan.

Grievance and quality assessment and
improvement systems, §23-99-702.
Health insurance consumer protection,
§23-99-403.

Managing general agent.

Insurance, §23-64-402.

Managing principal.

Fair mortgage lending act, §23-39-502.

Mandatory control level event.

Risk-based capital requirements for
health organizations, §23-63-1506.

Mandatory control level RBC.

Risk-based capital act, §23-63-1302.
Risk-based capital requirements for
health organizations, §23-63-1501.

Manufacturer.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

MAP.

Arkansas earthquake authority act,
§23-102-103.

Map service.

Automobile clubs or associations,
§23-77-101.

Market.

Insurance holding company regulation,
§23-63-528.

Market share.

Insurance holding company regulation,
§23-63-526.

Market value.

Credit unions, §23-35-603.

Medical assistance.

Comprehensive health insurance pool,
§23-79-503.

DEFINED TERMS —Cont'd**Medical care.**

Health insurance portability and
accountability, §23-86-303.

Medical food.

Tax credits for medically necessary
foods, §23-79-701.

Medical literature.

Insurance coverage for cancer
prescription medication,
§23-79-147.

Medically necessary.

Comprehensive health insurance pool,
§23-79-503.

Medical necessity.

Health insurance coverage for mental
illness, §23-99-507.

Medical service corporations,

§23-75-101.

Medicare.

Comprehensive health insurance pool,
§23-79-503.

Medicare supplement policy.

Insurance policies, §23-79-403.

Medium grade obligations.

Insurance company investments,
§23-63-805.

Member.

Electric cooperative corporations,
§23-18-302.

Health insurance, small employer
health insurance purchasing
groups, §23-86-502.

Rural telecommunications
cooperatives, §23-17-202.

Member-consumers.

Rural electric distribution
cooperatives, §23-4-901.

Member insurer.

Life and health insurance guarantee
association, §23-96-104.

Member organization.

Captive insurance companies,
§23-63-1601.

Mental illness.

Health insurance coverage for mental
illness, §23-99-503.

Mergers.

Bank mergers, conversions or other
corporate actions, §23-48-501.

Merging banks, §23-45-102.**Minimum basic benefit policy.**

Insurance, §23-98-102.

**Misrepresentation and false
advertising of insurance
policies, §23-66-206.****Monetary advantage or penalty.**

Patient protection act, §23-99-204.

DEFINED TERMS —Cont'd**Money market mutual fund.**

Domestic stock and mutual insurers,
§23-69-134.

Money order, §23-41-102.**Moody's corporate bond yield average.**

Life and health insurance guarantee
association, §23-96-104.

Mortgage banker.

Fair mortgage lending act, §23-39-502.

Mortgage broker.

Fair mortgage lending act, §23-39-502.

Mortgage loan.

Fair mortgage lending act, §23-39-502.

Mortgage servicer.

Fair mortgage lending act, §23-39-502.

Motor carrier, §23-13-203.**Motor club service.**

Automobile clubs or associations,
§23-77-101.

Motor vehicle, §23-13-203.

Manufacturers, dealers, etc.,
§23-112-103.

Motor carriers, §23-13-235.

Complaint proceedings, §23-13-301.

Used motor vehicle buyer protection,
§23-112-602.

Motor vehicle dealer, §23-112-103.**Motor vehicle lessor.**

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Motor vehicle salesman.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Multiple-party deposit accounts.

Banks, §23-47-204.

Municipality.

Natural gas pipeline safety,
§23-15-203.

Public utilities, §23-1-101.

Rural telecommunications
cooperatives, §23-17-202.

Utility facility environmental and
economic protection, §23-18-503.

Mutual association.

Savings and loan associations,
§23-37-101.

Mutual building and loan association, §23-38-101.**Mutual fund.**

Domestic stock and mutual insurers,
§23-69-134.

Mutual insurance holding company, §23-69-303.**NAIC.**

Fraudulent insurance acts, §23-66-501.

Risk-based capital act, §23-63-1302.

DEFINED TERMS —Cont'd**National bank, §23-45-102.****National trust company.**

Banks, §23-45-102.

Natural gas pipeline transporter, owner, or operator, §23-15-214.**Navigable water crossing, §23-3-501.****Navigable waterway, §23-3-501.****Negative trend.**

Risk-based capital act, §23-63-1302.

Negotiate.

Insurance producers, §23-64-502.

Net book value.

Valuation of utility property for
ratemaking purposes, §23-4-111.

Net debt.

Creditor-placed insurance,
§23-101-103.

Net direct written premiums.

Arkansas earthquake authority act,
§23-102-103.

Property and casualty insurance
guarantee, §23-90-103.

Rural risk underwriting, §23-88-302.

Net investment income.

Prepaid funeral benefits, §23-40-103.

Net metering.

Renewable energy development,
§23-18-603.

Net-metering customer.

Renewable energy development,
§23-18-603.

Net metering facility.

Renewable energy development,
§23-18-603.

Net recoverable assets.

Credit unions.

Dividends, §23-35-607.

Network.

Grievance and quality assessment and
improvement systems, §23-99-702.

Network element.

Telecommunications regulatory reform,
§23-17-403.

Network plan.

Health insurance portability and
accountability, §23-86-303.

Net worth.

Check sales, §23-41-102.

Prepaid funeral benefits, §23-40-103.

New business premium rate.

Small employer health insurance,
§23-86-202.

New motor vehicle.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

New trust office.

Trust companies, §23-51-102.

DEFINED TERMS —Cont'd**NIAC.**

Risked-based capital requirements for health organizations, §23-63-1501.

Noncompetitive market.

Rates and rating organizations, §23-67-202.

Nondestructive testing.

Amusement ride and amusement attraction safety insurance, §23-89-502.

Nonfederal governmental plan.

Health insurance portability and accountability, §23-86-303.

Nonindemnity trigger.

Protected cell company act, §23-63-1703.

Nonissuer.

Securities, §23-42-102.

Nonpayment of premium.

Casualty insurance, §23-89-301.

Nonprofit sponsor.

Railroads.
Special passenger excursion trains, §23-10-213.

Nonrenewable energy technology.

Utility facility environmental and economic protection, §23-18-503.

Nursing care.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Obligations.

Electric cooperative corporations, §23-18-302.
Rural telecommunications cooperatives, §23-17-202.

Occasional.

Motor carriers, §23-13-203.

Offer.

Securities, §23-42-102.

Offeree.

Investor protection takeover act, §23-43-102.

Offeror.

Investor protection takeover act, §23-43-102.

Offer to sell.

Securities, §23-42-102.

Office.

Trust companies, §23-51-102.

Officer.

Trust companies, §23-51-102.

Officers of this state, legislative, executive or judicial.

Railroads and transportation companies.
Passes and free transportation, §23-4-801.

DEFINED TERMS —Cont'd**Off-premises.**

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Used motor vehicle buyer protection, §23-112-602.

Operating subsidiary.

Trust companies, §23-51-102.

Order.

Banks, §23-45-102.

Original costs.

Valuation of utility property for ratemaking purposes, §23-4-111.

Other carriers.

Rail carriers, §23-16-101.

Out-of-state bank, §23-45-102.

Trust companies, §23-51-102.

Out-of-state state-chartered bank, §23-45-102.**Out-of-state trust company, §23-51-102.****Out-of-state trust institution, §23-51-102.****Overcharges.**

Air commerce, §23-14-102.

Overnight stay.

Motorcoach incentive act, §23-13-503.

Owner.

Amusement ride and amusement attraction safety insurance, §23-89-502.

Life and health insurance guaranty association, §23-96-104.

Parent.

Captive insurance companies, §23-63-1601.

Partial hospitalization.

Health insurance, group, mental health coverage, §23-86-113.

Participant.

Captive insurance companies, §23-63-1601.

Health insurance portability and accountability, §23-86-303.

Participant contract.

Captive insurance companies, §23-63-1601.

Participating provider.

Health insurance consumer protection, §23-99-403.

Health maintenance organizations, §§23-76-118, 23-76-119.

Parties.

Agency designation on certificates of deposit, §23-32-501.

Certificates of deposit, §23-47-301.

Payment of covered claims.

Property and casualty insurance guaranty, §23-90-103.

DEFINED TERMS —Cont'd**Payments.**

Agency designation on certificates of deposit, §23-32-501.

Certificates of deposit, §23-47-301.

Periodic physical examinations.**Insurance.**

Minimum basic benefit policies, §23-98-102.

Insurance policies.

Children's preventive health care, §23-79-141.

Permissible investment.

Check sales, §23-41-117.

Permit.

Check-cashers, §23-52-102.

Motor carriers, §23-13-203.

Permitted coverages.**Insurance.**

Minimum basic benefit policies, §23-98-102.

Permittee.

Prepaid funeral services, §23-40-103.

Person.

Agency designation on certificates of deposit, §23-32-501.

Air commerce, §23-14-102.

Banks, §23-45-102.

Check-cashers, §23-52-102.

Check sales, §23-41-102.

Commodities futures, §23-44-101.

Electric cooperative corporations, §23-18-302.

Fair mortgage lending act, §23-39-502.

Health insurance consumer protection, §23-99-403.

Health insurance coverage for mental illness, §23-99-503.

Health maintenance organizations, §23-76-102.

Insurance, §23-60-102.

Fraudulent insurance acts, §23-66-501.

Insurance holding company regulation, §§23-63-503, 23-63-506.

Insurance producers, §23-64-502.

Insurance sales consumer protection, §23-66-603.

Life and health insurance guarantee association, §23-96-104.

Motor carriers, §23-13-203.

Complaint proceedings, §23-13-301.

Motor vehicle manufacturers, dealers, etc., §23-112-103.

Natural gas pipeline safety, §23-15-203.

Professional employer organizations, §23-92-402.

DEFINED TERMS —Cont'd**Person —Cont'd**

Property and casualty insurance guarantee, §23-90-103.

Property insurance.

Rural risk underwriting, §23-88-302.

Public utilities, §23-1-101.

Merger or acquisition of control, §23-3-302.

Rural telecommunications

cooperatives, §23-17-202.

Securities, §23-42-102.

Title insurance, agents licensing, §23-103-102.

Trade practices, §23-66-203.

Trust companies, §23-51-102.

Used motor vehicle buyer protection, §23-112-602.

Utility facility environmental and economic protection, §23-18-503.

Viatical settlements, §23-81-602.

Personal care services.

Continuing care providers, §23-93-103.

Licensing, §23-93-201.

Personal insurance.

Use of credit information in personal insurance act, §23-67-404.

Personal representative.

Agency designation on certificates of deposit, §23-32-501.

Certificates of deposit, §23-47-301.

Personal risk liability.

Liability risk retention, §23-94-203.

Personal risks.

Rates and rating organizations, §23-67-202.

Petroleum refinery.

Natural gas pipeline safety, §23-15-203.

Physician.

Comprehensive health insurance pool, §23-79-503.

Pipeline facilities.

Natural gas pipeline safety, §23-15-203.

Placement.

Health insurance portability and accountability, §23-86-303.

Plan.

Comprehensive health insurance pool, §23-79-503.

Plan administrator.

Comprehensive health insurance pool, §23-79-503.

Plan of operation.

Comprehensive health insurance pool, §23-79-503.

Liability risk retention, §23-94-203.

DEFINED TERMS —Cont'd**Plan sponsor.**

Health insurance portability and accountability, §23-86-303.

Life and health insurance guaranty association, §23-96-104.

Point-of-sale terminals.

Automatic teller machines, §23-48-801.

Point-of-service.

Health maintenance organizations, §23-76-109.

Point of service plan.

Freedom of choice among health benefit plans, §23-86-406.

Points and fees.

Home loan protection act, §23-53-103.

Policy.

Casualty insurance, §23-89-301.

Fraudulent insurance acts, §23-66-501.

Genetic nondiscrimination in insurance act, §23-66-320.

Insurance policies, §23-79-101.

Life insurance policies and annuities, §23-81-109.

Long-term care insurance, §23-97-203.

Property and casualty insurance, §23-80-303.

Simplification of insurance policies, §23-80-203.

Viatical settlements, §23-81-602.

Policy cancellations.

Trade practices, §23-66-206.

Policy form.

Insurance policies.

Property and casualty insurance, §23-80-303.

Medicare supplement insurance minimum standards, §23-79-403.

Simplification of life and health insurance policy language, §23-80-203.

Policyholder.

Health insurance consumer protection, §23-99-403.

Life insurance policies and annuities, §23-81-109.

Policy loan.

Life insurance policies and annuities, §23-81-109.

Policy owner.

Life and health insurance guaranty association, §23-96-104.

Political advertising.

Public utilities.

Rates and charges, §23-4-207.

Pool.

Rates and rating organizations, §23-67-202.

DEFINED TERMS —Cont'd**Prearrangement.**

Prepaid funeral services, §23-40-103.

Predecessor financial institution.

Banks, §23-45-102.

Preexisting condition.

Long-term care insurance, §23-97-209.

Preexisting condition exclusion.

Health insurance portability and accountability, §23-86-303.

Preferred claim.

Insurance company rehabilitation and liquidation, §23-68-102.

Preferred dividend requirement.

Insurance company investments, §23-63-815.

Premium rates applicable to individually underwritten standard risks.

Health insurance, group, conversion policies, §23-86-115.

Premiums.

Fraternal benefit societies, §23-74-104.

Insurance policies, §23-79-101.

Life and health insurance guarantee association, §23-96-104.

Prepaid contract.

Funeral benefits, §23-40-103.

Prepaid funeral benefits contract,

§23-40-103.

Price amendment.

Securities.

Registration by coordination, §23-42-402.

Primary eye care provider,

§23-99-302.

Principal.

Loan brokers.

Prohibition of advance fee loan brokerage, §23-39-401.

Principal office.

Trust companies, §23-51-102.

Principal place of business.

Fair mortgage lending act, §23-39-502.

Life and health insurance guaranty association, §23-96-104.

Regional savings and loan act, §23-37-802.

Principal shareholder.

Trust companies, §23-51-102.

Principal stockholder.

Dog racing, §23-111-402.

Private carrier.

Motor carriers, §23-13-203.

Private trust company,

§23-51-102.

Probationary status.

Insurance adjuster, agents and brokers, §23-64-216.

DEFINED TERMS —Cont'd**Producer.**

Business transacted with producer controlled property and casualty insurer, §23-63-1102.

Creditor-placed insurance, §23-101-103.

Producer reinsurance captive insurance company, §23-63-1601.**Production facilities.**

Natural gas pipeline safety, §23-15-203.

Production progress.

Natural gas pipeline safety, §23-15-203.

Product liability.

Liability risk retention, §23-94-203.

Professional employer agreement, §23-92-402.**Professional employer organization, §23-92-402.****Professional employer organization group, §23-92-402.****Professional employer organization service organization affidavit, §23-92-402.****Professional employer services, §23-92-402.****Promotional advertising.**

Public utilities.

Rates and charges, §23-4-207.

Property and/or casualty insurer.

Risk-based capital act, §23-63-1302.

Property damage.

Casualty insurance, §23-89-404.

Property insurance, §23-62-104.**Protected cell, §23-63-1703.**

Captive insurance companies, §23-63-1601.

Protected cell account, §23-63-1703.**Protected cell assets, §23-63-1703.****Protected cell company, §23-63-1703.****Protected cell company insurance securitization, §23-63-1703.****Protected cell liabilities, §23-63-1703.****Provider.**

Comprehensive health insurance pool, §23-79-503.

Continuing care providers, §23-93-103.
Licensing, §23-93-201.

Health maintenance organizations, §23-76-102.

Tax credits for medically necessary foods, §23-79-701.

Public service facility.

Navigable water crossings, §23-3-501.

Public utility, §23-1-101.

Environmental and economic protection, §23-18-503.

DEFINED TERMS —Cont'd**Public utility —Cont'd**

Valuation of property for ratemaking purposes, §23-4-111.

Public utility holding company act of 1935.

Securities, §23-42-102.

Published monthly average.

Life insurance policies and annuities, §23-81-109.

Purchase.

Public utilities.

Avoided cost, §23-3-702.

Purchase or assumption.

Bank mergers, conversions or other corporate actions, §23-48-501.

Purchaser.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Purchasing group.

Liability risk retention, §23-94-203.

Pure captive insurance company, §23-63-1601.**Pure premium.**

Rates and rating organizations, §23-67-202.

Put option.

Insurance company investments, §23-63-838.

Qualified family.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified group.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified high risk pool.

Comprehensive health insurance pool, §23-79-503.

Qualified individual.

Insurance.

Minimum basic benefit policies, §23-98-102.

Qualified long-term care insurance contract.

Long-term care insurance, §23-97-203.

Qualified long-term care services.

Insurance, §23-97-203.

Qualified United States financial institution.

Reinsurance intermediaries, §23-62-403.

Reserves ceded to nonadmitted reinsurers, §23-62-307.

Qualifying facility.

Public utilities.

Avoided cost, §23-3-702.

DEFINED TERMS —Cont'd**Radiation treatment.**

Health insurance, outpatient coverage,
§23-85-133.

Rail carrier, §23-16-101.**Railroad, §23-10-101.**

Passes and free transportation,
§23-4-801.

Railroad company.

Freight, §23-10-402.

**Railroad corporation, §§23-10-101,
23-11-202.****Rates.**

Public utilities, §23-1-101.

Avoided cost, §23-3-702.

Public utilities and regulated
industries, §23-67-202.

**Rates service organization,
§23-67-202.****Rating period.**

Small employer health insurance,
§23-86-202.

RBC instructions.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

RBC level.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

RBC plan.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

RBC report.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

Rebates.

Trade practices, §23-66-206.

Receiver.

Insurance company rehabilitation and
liquidation, §23-68-102.

Trust companies, §23-51-102.

Receivership court.

Life and health insurance guaranty
association, §23-96-104.

Reciprocal insurance, §23-70-101.**Reciprocal insurer, §23-70-101.****Reciprocal state.**

Insurance company rehabilitation and
liquidation, §23-68-102.

State insurance department,
§23-61-111.

Recklessly.

Viatical settlements, §23-81-602.

Reconciled item.

Insurance producers, §23-64-232.

DEFINED TERMS —Cont'd**Refund reserve.**

Continuing care providers, §23-93-103.

Licensing, §23-93-201.

**Registered out-of-state bank,
§23-45-102.****Regular route.**

Motor carriers, §23-13-203.

Regulation.

Health insurance portability and
accountability, §23-86-303.

Regulatory action level event.

Risk-based capital requirements for
health organizations, §23-63-1504.

Regulatory action level RBC.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for
health organizations, §23-63-1501.

Reinsurance, §23-60-102.

Fraudulent insurance acts, §23-66-501.

**Reinsurance intermediary,
§23-62-402.****Reinsurance intermediary broker,
§23-62-402.****Reinsurance intermediary manager,
§23-62-402.****Reinsurer.**

Intermediaries, §23-62-402.

Relevant market area.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.

Renal dialysis.

Health insurance, outpatient coverage,
§23-85-133.

Renewable energy technology.

Utility facility environmental and
economic protection, §23-18-503.

Renewal.

Casualty insurance, §23-89-301.

Rental agreement.

Insurance, §23-64-202.

Rental company.

Insurance, §23-64-202.

Rental period.

Insurance, §23-64-202.

Rental vehicle.

Insurance, §23-64-202.

Renter.

Insurance, §23-64-202.

Reorganized stock insurer.

Mutual insurance holding companies,
§23-69-303.

Representative.

Securities, §23-42-102.

Resale.

Telecommunications regulatory reform,
§23-17-403.

DEFINED TERMS —Cont'd**Resident.**

- Continuing care providers, §23-93-103.
- Licensing, §23-93-201.
- Life and health insurance guarantee association, §23-96-104.

Resident agent.

- Insurance, §23-64-102.

Resident eligible person.

- Comprehensive health insurance pool, §23-79-503.

Residual market mechanism.

- Rates and rating organizations, §23-67-202.

Restrictions of any character.

- Loans under Servicemen's Readjustment Act, §23-32-205.

Resulting bank, §23-45-102.**Retail sale.**

- Motor vehicle manufacturers, dealers, etc., §23-112-103.

Risk management.

- State insurance department, §23-61-603.

Risk manager.

- State insurance department, §23-61-603.

Risk retention group.

- Liability risk retention, §23-94-203.

River crossing proprietor, §23-3-501.**RNA.**

- Genetic nondiscrimination in insurance act, §23-66-320.

Rules.

- Fraternal benefit societies, §23-74-104.

Rural area.

- Rural telecommunications cooperatives, §23-17-202.

Rural telephone company.

- Telecommunications regulatory reform, §23-17-403.

Safe deposit box.

- Banks, §23-45-102.

Sale.

- Securities, §23-42-102.
- Used motor vehicle buyer protection, §23-112-602.

Sale at retail.

- Motor vehicle manufacturers, dealers, etc., §23-112-103.

Savings account.

- Savings and loan associations, §23-37-101.

Savings and loan association.

- Banks, §23-45-102.

Savings and loan holding company.

- Regional savings and loan act, §23-37-802.

DEFINED TERMS —Cont'd**Savings associations.**

- Trust companies, §23-51-102.

Screening mammography.

- Insurance policies, §23-79-140.

Second stage manufacturer.

- Motor vehicle manufacturers, dealers, etc., §23-112-103.

Secured claim.

- Insurance company rehabilitation and liquidation, §23-68-102.

Securities, §23-42-102.

- Public utilities, §23-1-101.

Securities exchange act of 1933,

- §23-42-102.

Securities exchange act of 1934,

- §23-42-102.

Security holder.

- Insurance holding company regulation, §23-63-503.

Sell.

- Insurance producers, §23-64-502.
- Securities, §23-42-102.
- Title insurance, agents licensing, §23-103-102.
- Used motor vehicle buyer protection, §23-112-602.

Seller.

- Prepaid funeral benefits, §23-40-103.

Selling banks.

- Mergers, conversions or other corporate actions, §23-48-506.

Service.

- Air commerce, §23-14-102.
- Motor carriers, §23-13-203.
- Public utilities, §23-1-101.

Service corporation.

- Regional savings and loan act, §23-37-802.

Shareholder.

- Trust companies, §23-51-102.

Shares.

- Trust companies, §23-51-102.

Shipper.

- Railroads.
- Freight, §23-10-401.

Signing title insurance agent,

- §23-103-102.

Single interest insurance.

- Creditor-placed insurance, §23-101-103.

Small employer.

- Health insurance, §23-86-202.
- Health insurance coverage for mental illness, §23-99-503.
- Health insurance portability and accountability, §23-86-303.

DEFINED TERMS —Cont'd**Small employer carrier.**

Health insurance, §23-86-202.

Small-group markets.Health insurance portability and
accountability, §23-86-303.**Society.**

Fraternal benefit societies, §23-74-104.

Solicit.

Continuing care providers, §23-93-103.

Licensing, §23-93-201.

Insurance producers, §23-64-502.

Southern region association.Regional savings and loan act,
§23-37-802.**Southern region savings and loan
holding company.**Regional savings and loan act,
§23-37-802.**Southern region states.**Regional savings and loan act,
§23-37-802.**Special deposit claim.**Insurance company rehabilitation and
liquidation, §23-68-102.**Special intrastate ILEC revenue,**
§23-17-403.**Special passenger excursion train,**
§23-10-213.**Special purpose captive insurance
company.**Captive insurance companies,
§23-63-1601.**Special purpose entity.**

Viatical settlements, §23-81-602.

Specialty.Health insurance consumer protection,
§23-99-403.**Specialty vehicle.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Sponsor.**Captive insurance companies,
§23-63-1601.**Sponsored captive insurance
company,** §23-63-1601.**State.**

Banks, §23-45-102.

Health insurance portability and
accountability, §23-86-303.

Insurance, §23-60-102.

Insurance company rehabilitation and
liquidation, §23-68-102.

Liability risk retention, §23-94-203.

Life and health insurance guaranty
association, §23-96-104.Regional savings and loan act,
§23-37-802.**DEFINED TERMS —Cont'd****State —Cont'd**

Securities, §23-42-102.

Trust companies, §23-51-102.

State agency.

Insurance departments, §23-61-603.

Rural telecommunications
cooperatives, §23-17-202.**State association.**Regional savings and loan act,
§23-37-802.**State bank,** §23-45-102.

Trust companies, §23-51-102.

State-chartered lending institutions.Loans under Servicemen's
Readjustment Act, §23-32-205.**State law.**Health insurance portability and
accountability, §23-86-303.**State-mandated health benefits.**Health insurance consumer choice,
§23-79-802.Health insurance, small employer
health insurance purchasing
groups, §23-86-502.**State trust company,** §23-51-102.

State trust institution, §23-51-102.

State trust company facilities.Trust company investments,
§23-51-121.**Stock association.**Savings and loan associations,
§23-37-101.**Stock operations and advisory
board contracts.**

Trade practices, §23-66-206.

Stop loss coverage.Comprehensive health insurance pool,
§23-79-503.**Structured settlement annuity.**Life and health insurance guaranty
association, §23-96-104.**Subsidiary.**Insurance holding company regulation,
§23-63-503.Regional savings and loan act,
§23-37-802.

Trust companies, §23-51-102.

Subsidiary trust company,
§23-51-102.

Banks, §23-45-102.

Supervisory banking authority.

Automatic teller machines, §23-48-801.

Bank branches, §23-48-701.

Supplemental contract.Life and health insurance guarantee
association, §23-96-104.

DEFINED TERMS —Cont'd**Supplementary rate information.**

Public utilities and regulated industries, §23-67-202.

Supporting information.

Rates and rating organizations, §23-67-202.

Surcharge.

Gas utilities, §23-3-602.

Surplus.

Prepaid funeral benefits, §23-40-101.

Trust companies, §23-51-102.

Switched-access service.

Telecommunications regulatory reform, §23-17-403.

Takeover offer.

Investor protection takeover act, §23-43-102.

Target company.

Investor protection takeover act, §23-43-102.

Telecommunications company.

Rural telecommunications cooperatives, §23-17-202.

Telecommunications provider.

Telecommunications regulatory reform, §23-17-403.

Telecommunications service.

Rural telecommunications cooperatives, §23-17-202.

Telecommunications regulatory reform, §23-17-403.

Temporary help services.

Professional employer organizations, §23-92-402.

Temporary permit.

Motor vehicle manufacturers and dealers, §23-112-103.

Tender offer.

Merger or acquisition of control, §23-3-302.

Terminally ill.

Viatical settlements, §23-81-602.

Terminate.

Insurance producers, §23-64-502.

Text.

Insurance policies.
Simplification, §23-80-206.

Theft service.

Automobile clubs or associations, §23-77-101.

Third party administrator.

Multiple employer trusts and self-insured plans, §23-92-201.

Thresholds.

Home loan protection act, §23-53-103.

Tier one company.

Telecommunications regulatory reform, §23-17-403.

DEFINED TERMS —Cont'd**Title insurance.**

Agents licensing, §23-103-102.

Title insurance agent.

Title insurance, agents licensing, §23-103-102.

Title insurer.

Title insurance, agents licensing, §23-103-102.

To be in violation.

Reinsurance intermediaries, §23-62-402.

Toll reseller.

Telecommunications, §23-17-403.

Total adjusted capital.

Risk-based capital act, §23-63-1302.

Risk-based capital requirements for health organizations, §23-63-1501.

Total customer access base.

Telecommunications, §23-17-403.

Total eligible employees.

Health insurance, small employer health insurance purchasing groups, §23-86-502.

Total loan amount.

Home loan protection act, §23-53-103.

Totten trust.

Banks, §23-47-204.

Touring service.

Automobile clubs or associations, §23-77-101.

Towing service.

Automobile clubs or associations, §23-77-101.

Trade adjustment assistance eligible person.

Comprehensive health insurance pool, §23-79-503.

Transact.

Insurance, §23-60-102.

Transact business within the general public.

Private trust companies, §23-51-118.

Transacting insurance.

Professional employer organizations, §23-92-402.

Transition costs.

Electric utilities, recovery, §23-4-209.

Transportation, §23-2-201.

Air commerce, §23-14-102.

Motor carriers, §23-13-203.

Transportation company.

Passes and free transportation, §23-4-801.

Transportation of gas.

Natural gas pipeline safety, §23-15-203.

DEFINED TERMS —Cont'd**Trust business.**

Trust companies, §23-51-102.

Trust company, §23-51-102.**Trust deposits.**

Trust companies, §23-51-102.

Trustees.

Prepaid funeral benefits, §23-40-103.

Trust institution, §23-51-102.**Trust office.**

Trust companies, §23-51-102.

Type.Health insurance consumer protection,
§23-99-403.**Ultimate purchaser.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Unallocated annuity contract.**Life and health insurance guaranty
association, §23-96-104.**Unauthorized insurer, §23-60-102.****Unauthorized trust activity.**

Trust companies, §23-51-102.

Under common control with.Insurance holding company regulation,
§23-63-503.**Underlying carrier.**

Telecommunications, §23-17-403.

Underlying security.Insurance company investments,
§23-63-838.**Underwrite.**Insurance managing general agents,
§23-64-402.**Underwriting: refusing certain risks.**

Trade practices, §23-66-206.

Undivided profits.

Trust companies, §23-51-102.

**Unfair claims settlement practices,
§23-66-206.****Unfair discrimination.**

Trade practices, §23-66-206.

Unfairly compete.Motor vehicle dealers, distributors,
manufacturers and salespersons,
§23-112-403.**Uniform application.**

Insurance producers, §23-64-502.

Uniform business entity application.

Insurance producers, §23-64-502.

Uninsured motor vehicle.

Common carriers, §23-16-301.

Universal service.Telecommunications regulatory reform,
§23-17-403.**Usage fee.**Automatic teller machines,
§§23-32-208, 23-48-810.**DEFINED TERMS —Cont'd****Used motor vehicle.**

Buyer protection, §23-112-602.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Used motor vehicle dealer.**

Buyer protection, §23-112-602.

Motor vehicle manufacturers, dealers,
etc., §23-112-103.**Used motor vehicle salesman.**

Buyer protection, §23-112-602.

Utility.Environmental and economic
protection, §23-18-503.**Utility service.**Merger or acquisition of control of
domestic public utilities,
§23-3-302.**Vehicle.**

Insurance, §23-64-202.

**Viatical settlement broker,
§23-81-602.****Viatical settlement contract,
§23-81-602.****Viatical settlement provider,
§23-81-602.****Viatical settlement purchaser,
§23-81-602.****Viaticated policy, §23-81-602.****Viator, §23-81-602.****Voting security.**Insurance holding company regulation,
§23-63-503.Mutual insurance holding companies,
§23-69-303.

Public utilities.

Merger or acquisition of control,
§23-3-302.

Trust companies, §23-51-102.

Waiting period.Health insurance portability and
accountability, §23-86-303.**Wet marine and foreign trade
insurance, §23-60-102.****Wholesaler.**Motor vehicle manufacturers, dealers,
etc., §23-112-103.Used motor vehicle buyer protection,
§23-112-602.**Wholly owned Arkansas bank
holding company.**Bank mergers, conversions or other
corporate actions, §23-48-501.**Written designation.**

Financial institutions, §23-32-207.

X rays.Health insurance, outpatient coverage,
§23-85-133.

DENTAL POINT OF SERVICE OPTION.

- Health insurance carriers,**
§§23-99-601 to 23-99-608.
- Applicability of subchapter,
§23-99-608.
- Attorney General to defend
subchapter, §23-99-607.
- Benefits offered same as offered
through network, §23-99-604.
- Coverage for out-of-network dentists,
§23-99-604.
- Definitions, §23-99-603.
- Dental point of service act, §23-99-601.
- Effective date, §23-99-608.
- Enforcement authority of insurance
Commissioner, §23-99-606.
- Findings of general assembly,
§23-99-602.
- Purposes, §23-99-602.
- Rules and regulations, §23-99-605.

DEPARTMENT OF INSURANCE.

See INSURANCE.

DEPOSITIONS.**Highways.**

- State highway and transportation
department, §23-2-412.

Public service commission, §23-2-412.**DEPOSITS.****Banks.**

- General provisions.
- See BANKS.

Credit unions generally, §§23-35-101 to 23-35-805.

See CREDIT UNIONS.

Hospital and medical service corporations.

- Protection of subscribers, §23-75-109.
- Required, §23-75-109.

Insurance.

See INSURANCE.

Public utilities.

- Consumer deposits.
- Interest on, §23-4-206.

Savings and loan associations,
§§23-37-101 to 23-37-812.
See SAVINGS AND LOAN
ASSOCIATIONS.

DEPOTS.**Railroads.**

See RAILROADS.

DERAILMENT.

Clearing right of way following,
§23-12-203.

DEVELOPMENTAL DISABILITIES.**Mental health.**

- General provisions.
- See MENTAL HEALTH.

DIABETES.

Insurance coverage, §§23-79-601 to
23-79-607.

- Applicability.
- Exceptions, §23-79-607.
- Policies, §23-79-606.
- Definitions, §23-79-601.
- Exclusions, §23-79-604.
- Requirements, §23-79-603.
- Rules and regulations, §23-79-605.
- Self-management training, §23-79-602.

DIRECT ACTION.**Insurers, §23-79-210.****DISABILITY INSURANCE.**

Credit life and disability insurance,
§§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY
INSURANCE.

Health insurance.

- Generally.
- See HEALTH INSURANCE.

Life and health insurance guaranty
association, §§23-96-101 to
23-96-121.

See LIFE AND HEALTH
INSURANCE GUARANTY
ASSOCIATION.

Mutual assessment life and
disability insurers, §§23-72-101 to
23-72-122.

See MUTUAL ASSESSMENT LIFE
AND DISABILITY INSURERS.

DISABLED PERSONS.**Insurance.**

- Health insurance.
- Policies.
- Age requirement, §23-85-131.
- Exceptions to requirements,
§23-85-131.

Mental health.

- General provisions.
- See MENTAL HEALTH.

DISCOVERY.**Insurance.**

- Unfair competition and trade
practices.
- Production of books, §23-66-209.

DISCRIMINATION.

Health insurance portability and
accountability.

- Discrimination based on health status,
§23-86-306.

DISCRIMINATION —Cont'd**Public utilities.**

Complaints to commission, §23-3-119.

Investigations.

Preliminary investigation by
commission, §23-3-118.

Unreasonable preferences prohibited,
§23-3-114.

Railroads.

See RAILROADS.

DISEASES.**Cancer.**

See CANCER.

DISSOLUTION.**Credit unions.**

Voluntary dissolution.

Procedure, §§23-35-703, 23-35-705.

Insurance.

Domestic stock and mutual insurers.

See DOMESTIC STOCK AND
MUTUAL INSURERS.

DISTRICTS.**Improvement districts.**

Fire protection districts.

See FIRE PROTECTION
DISTRICTS.

DIVIDENDS.**Banks.**

Payment, §23-48-203.

Credit unions.

Declaration of dividends, §23-35-607.

Insurance.

See INSURANCE.

Savings and loan associations.

Savings accounts, §23-37-403.

DIVORCE.**Insurance.**

Group and blanket health insurance.

Continuation of coverage upon
change in marital status,
§23-86-114.

DNA TEST RESULTS.**Insurance.**

Genetic nondiscrimination in
insurance act, §23-66-320.

DOCTORS.**General provisions.**

See PHYSICIANS AND SURGEONS.

DOGS.**Greyhound racing.**

See GREYHOUND RACING.

DOMESTIC INSURANCE**COMPANIES.****Domestic stock and mutual insurers.**

See INSURANCE COMPANIES.

DOMESTIC INSURANCE**COMPANIES —Cont'd****General provisions.**

See INSURANCE COMPANIES.

DOMESTIC STOCK AND MUTUAL INSURERS.

Additional kinds of insurance,
§23-69-117.

Applicability of chapter, §23-69-101.

**Applicability of general corporation
statutes,** §23-69-103.

Assessments.

Stockholders or members, §23-69-139.

Assets.

Distribution of assets to stockholders
upon dissolution, §23-69-154.

Impairment, §23-69-138.

Liquidation.

Mutual member's share of assets
upon liquidation, §23-69-155.

Assumption reinsurance, §§23-69-149,
23-69-150.

Board of directors.

Vacancies on board, §23-69-110.

Bonds, surety.

Nonlife mutual insurers, §23-69-113.

Bylaws of mutuals, §23-69-119.**Capital.**

Impairment, §23-69-138.

Charters.

Extinguishment of unused corporate
charters, §23-69-156.

Confidentiality of information.

Provisions for the prevention of unfair
use of information by owners,
directors or officers, §23-69-205.

Conflicts of interest.

Prohibited pecuniary interest of
officials, §23-69-109.

Consideration for stock, §23-69-127.**Consolidations.**

Acquiring corporations under a plan of
exchange to be separate,
§23-69-147.

Effect, §23-69-145.

Exchange of stock of stock insurers,
§23-69-142.

Effect of exchange under plan,
§23-69-146.

Mutual insurers, §23-69-143.

Nonconsenting stockholders,
§23-69-148.

Plan of exchange of shares agreement,
§23-69-144.

Contracts.

Management and exclusive agency
contracts, §23-69-137.

DOMESTIC STOCK AND MUTUAL INSURERS —Cont'd**Contributions.**

Authorization, §23-69-111.

Conversions, §23-69-141.**Corporations.**

Articles of incorporation.

Amendments, §23-69-107.

Filing and approval, §23-69-106.

Bylaws of mutuals, §23-69-119.

Charters.

Extinguishment of unused corporate charters, §23-69-156.

Incorporation of domestic stock and domestic mutual insurers, §23-69-105.

Membership in mutuals, §23-69-118.

Nonlife mutual insurers.

Applications for insurance during formation, §23-69-114.

Powers generally, §23-69-111.

Formation, §23-69-113.

Powers of companies not enlarged, §23-69-104.

Definitions, §23-69-102.**Dissolution.**

Failure of mutual insurer to complete organization, §23-69-116.

Voluntary dissolution.

Continuation for suit and winding up affairs, §23-69-153.

Directors to act as trustees, §23-69-152.

Distribution of assets to stockholders, §23-69-154.

Procedure, §23-69-151.

Dividends.

Illegal dividends, §23-69-131.

Mutual policyholders, §23-69-130.

Stockholders, §23-69-129.

Domestic insurance companies.

Liquidation.

Claims of nonresidents, §23-68-116.

Conduct of delinquency proceedings against, §23-68-113.

Funds, §23-68-114.

Order, §23-68-111.

Rehabilitation.

Claims of nonresidents against, §23-68-116.

Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.

Funds, §23-68-114.

Equity securities.

Application of provisions to foreign or domestic arbitrage transactions, §23-69-203.

Application to registered, §23-69-202.

DOMESTIC STOCK AND MUTUAL INSURERS —Cont'd**Equity securities —Cont'd**

Defined, §23-69-201.

Holding in an investment account, §23-69-207.

Restrictions upon sale, §23-69-206.

Rules and regulations.

Promulgation, §23-69-208.

Statement of owners, §23-69-204.

Expenditures.

Vouchers, §23-69-135.

Failure of mutual insurer to complete organization, §23-69-116.**General corporation statutes.**

Applicability, §23-69-103.

Home office, §23-69-134.**Initial qualifications.**

Authorization to transact certain kinds of business, §23-69-112.

Liabilities.

Contingent liability of nonlife mutual members, §23-69-124.

Enforcement, §23-69-124.

Stockholders, §23-69-133.

Liquidation.

Mutual member's share of assets on liquidation, §23-69-155.

Meetings.

Stockholders, §23-69-120.

Members.

Assessments, §23-69-139.

Membership in mutuals, §23-69-118.**Mergers.**

Acquiring corporations under a plan of exchange, §23-69-147.

Effect, §23-69-145.

Exchange of stock of stock insurers, §23-69-142.

Effect of exchange under plan, §23-69-146.

Mutual insurers, §23-69-143.

Nonconsenting stockholders, §23-69-148.

Plan of exchange of shares agreement, §23-69-144.

Mutualization of stock insurers, §23-69-140.**Nonlife mutual insurers.**

Applications for insurance during formation, §23-69-114.

Bond, surety, §23-69-113.

Contingent liability, §23-69-124.

Enforcement, §23-69-124.

Formation, §23-69-113.

Officers.

Conflicts of interest, §23-69-109.

Qualifications, §23-69-108.

DOMESTIC STOCK AND MUTUAL INSURERS —Cont'd**Officers —Cont'd**

Statement of officers of domestic stock insurance companies, §23-69-204.

Terms, §23-69-108.

Participating policies, §23-69-126.**Penalties.**

Illegal dividends, §23-69-131.

Personal property.

Situs for taxation, §23-69-136.

Policies.

Dividends to mutual policyholders, §23-69-130.

Issuance, §23-69-115.

Management and exclusive agency contracts, §23-69-137.

Nonassessable policies, §23-69-125.

Revocation of authority, §23-69-125.

Premiums.

Trust deposit, §23-69-115.

Proxies, §23-69-122.

Corrupt practices, §23-69-123.

Qualifications.

Initial qualifications, §23-69-112.

Records.

Confidentiality of information.

Provisions for the prevention of unfair use of information, §23-69-205.

Keeping, §23-69-134.

Penalty for unlawful removal, §23-69-134.

Reinsurance.

Assumption reinsurance, §§23-69-149, 23-69-150.

Rules and regulations.

Equity securities, §23-69-208.

Scope of chapter, §23-69-101.**Shares of stock.**

Consideration, §23-69-127.

Equity securities.

Application of provisions to foreign or domestic arbitrage transactions, §23-69-203.

Application to register, §23-69-202.

Defined, §23-69-201.

Holding in an investment account, §23-69-207.

Restrictions upon sale, §23-69-206.

Rules and regulations, §23-69-208.

Statement of owners, §23-69-204.

Transfer of stock, §23-69-128.

Stockholders.

Assessments, §23-69-139.

Dissolution of company.

Distribution of assets to stockholders, §23-69-154.

DOMESTIC STOCK AND MUTUAL INSURERS —Cont'd**Stockholders —Cont'd**

Dividends, §23-69-129.

Equity securities.

Statement of owners, §23-69-204.

Liability, §23-69-133.

Meetings, §23-69-120.

Mergers and consolidations.

Effect of exchange under plan of exchange, §23-69-146.

Exchange of stock of stock insurers, §23-69-142.

Acquiring corporations under a plan of exchange, §23-69-147.

Nonconsenting stockholders, §23-69-148.

Plan of exchange of shares agreement, §23-69-144.

Mutualization of stock insurers, §23-69-140.

Proxies, §23-69-122.

Voting rights, §23-69-121.

Corrupt practices, §23-69-123.

Proxies, §23-69-122.

Corrupt practices, §23-69-123.

Stock transfer books.

Closing, §23-69-121.

Surpluses.

Borrowed surplus, §23-69-132.

Taxation.

Personal property.

Situs, §23-69-136.

Transactions.

Additional kinds of insurance, §23-69-117.

Transfer of stock, §23-69-128.**Vacancies on board of directors, §23-69-110.****Winding up affairs, §23-69-153.****DRAINAGE.****Railroads.**

Drainage of roadbed, §23-12-204.

DRIVE-THRU DELIVERIES.**Health insurance, §23-99-404.****DRUG ABUSE.****Insurance.**

Care and treatment of alcohol and drug dependency.

Insurers transacting health, accident or disability insurance in state.

Requirements of group policies, contracts and plans providing hospital and medical coverage, §23-79-139.

DRUGS.**Health insurance.**

- Enforcement administration registry number protection, §23-66-702.
- Legislative declaration, §23-66-701.
- Prescriptions.
 - Formulary for prescription drugs, §23-99-409.

Motor carriers.

- Operation under influence of controlled substances, §23-13-258.

Prescriptions.

- General provisions.
- See PRESCRIPTIONS.
- Health insurance.
 - Formulary for prescription drugs, §23-99-409.

DRUNKENNESS.**Insurance.**

- Care and treatment of alcohol and drug dependency.
- Insurers transacting health, accident or disability insurance in state.
- Requirements of group policies, contracts and plans providing hospital and medical coverage, §23-79-139.

Motor carriers.

- Prohibited acts, §23-13-258.

Railroads.

- Arrests by railroad conductors, §23-12-708.
- Authority of conductors to arrest drunken persons and deliver to peace officers, §23-12-708.
- Engineer or conductor drunk.
- Penalty, §23-12-807.

E**EARTHQUAKE AUTHORITY,**

§§23-102-101 to 23-102-119.

Administrative assessment,

§23-102-112.

Amount of coverage offered,

§23-102-113.

Appeals of ruling or decision of board,

§23-102-115.

Assessment by insurers,

§23-102-112.

Board.

- Executive director or plan administrator, appointment, §23-102-111.
- Membership, terms, vacancies and expenses, §23-102-105.

**EARTHQUAKE AUTHORITY —Cont'd
Board —Cont'd**

- Plan of operation, adoption, §23-102-107.
- Powers, §23-102-108.
- Body politic of state, §23-102-104.
- Contributions, initial operating capital, §23-102-112.
- Coordination with federal or multistate program, §23-102-117.
- Coverage accessible through authority, §23-102-110.
- Created, §23-102-104.
- Deductibles determined by board, §23-102-113.
- Definitions, §23-102-103.
- Eligibility for residential earthquake insurance.
 - Notice to policyholders, §23-102-114.
- Executive director.
 - Appointment by board, duties, §23-102-111.
- Exemption from property and casualty insurance guaranty act, §23-102-118.
- Exemption from taxes, §23-102-104.
- Immunity of participating insurers, authority agents or employees, etc., §23-102-106.
- Intent of provisions, §23-102-102.
- Legislative findings, §23-102-102.
- Living expenses, coverage for, §23-102-113.
- Market assistance program, §23-102-109.
 - Suspension, availability and competition in marketplace, §23-102-107.
- Noticed as to eligibility for insurance, §23-102-114.
- Participation by insurers in market assistance program, §23-102-109.
- Personal property, coverage for, §23-102-113.
- Plan administrator.
 - Appointment by board, duties, §23-102-111.
- Plan of operation, §23-102-107.
- Political subdivision, authority created as, §23-102-104.
- Powers of board, §23-102-108.
- Purchasing law and procurement act, exemption, §23-102-104.
- Rates for plan coverage, §23-102-112.
- Rulemaking authority, §23-102-116.
- Short title, §23-102-101.

EARTHQUAKE AUTHORITY —Cont'd**Suspension of operations of market assistance program or authority.**

Sufficient availability and competition
in marketplace, §23-102-107.

Termination of authority,

§23-102-119.

EARTHQUAKE INSURANCE.**Residential earthquake insurance.**

Arkansas earthquake authority act,
§§23-102-101 to 23-102-119.

See EARTHQUAKE AUTHORITY.

EDUCATION.**Insurance.**

Agents.

Continuing education.

See INSURANCE.

Brokers.

Continuing education.

See INSURANCE.

School districts.

Direct actions against insurers,
§23-79-210.

ELECTIONS.**Greyhound racing.**

Franchises to conduct races.

See GREYHOUND RACING.

Horse racing.

Franchises to conduct horse races.

See HORSE RACING.

Racing meets.

Sunday racing, §23-110-402.

Rural telephone cooperatives.

Board of directors, §23-17-219.

ELECTRIC COOPERATIVE CORPORATIONS.**Acquired.**

Defined, §23-18-302.

Acquisition of energy, capacity and generation assets.

Rules and regulations regarding,
adoption by commission,
§23-18-106.

Alternative methods to meet obligations, utilization.

Rules and regulations regarding,
adoption by commission,
§23-18-106.

Articles of incorporation.

Amendment, §23-18-313.

Articles of amendment, §23-18-313.

Fees, §23-18-326.

Contents, §23-18-311.

Defective articles.

Correction, §23-18-315.

Execution, §23-18-312.

Fees, §23-18-326.

Filing, §23-18-312.

Recordation, §23-18-312.

ELECTRIC COOPERATIVE**CORPORATIONS —Cont'd****Board of directors.**

Agents, §23-18-323.

Compensation, §23-18-321.

Conflicts of interest, §23-18-321.

Defined, §23-18-302.

Duties, §23-18-321.

Election, §23-18-321.

Employees, §23-18-323.

Executive committee, §23-18-322.

Meetings, §23-18-321.

Number, §23-18-321.

Officers, §23-18-323.

Prudent person rule, §23-18-321.

Qualifications, §23-18-321.

Quorum, §23-18-321.

Standards of care, §23-18-321.

Vacancies, §23-18-321.

Bylaws.

Contents.

Generally, §23-18-317.

Power to alter, amend or repeal,
§23-18-317.

Qualifications of directors, §23-18-321.

Certificate of incorporation.

Evidence, §23-18-314.

Issuance, §23-18-314.

Citation, §23-18-301.**Comprehensive resource planning.**

Rules and regulations regarding,
adoption by commission,
§23-18-106.

Conflicts of interest.

Board of directors, §23-18-321.

Consolidation.

Articles of consolidation.

Execution, etc., §23-18-324.

Fees, §23-18-326.

Authorized, §23-18-324.

Construction of article.

Liberal construction, §23-18-303.

Corporate powers, §23-18-307.**Corporation.**

Defined, §23-18-302.

Correcting defects of organization, §23-18-315.**Defects of organization.**

Correction, §23-18-315.

Definitions, §23-18-302.

Rates and charges, §23-4-901.

Dissolution.

Articles of dissolution.

Fees, §23-18-321.

Authorized, §23-18-325.

Certificate of dissolution.

Execution, §23-18-325.

ELECTRIC COOPERATIVE CORPORATIONS —Cont'd

Eligibility to membership,
§23-18-318.

Executive committee.
Election, §23-18-322.

Existing corporations may come under law, §23-18-305.

Federal agencies.
Defined, §23-18-302.

Fees.
Annual license fee, §23-18-329.
Filing fees, §23-18-326.

Incorporated areas.
Service in, §23-18-331.

Incorporators.
Age, §23-18-309.
Number, §23-18-309.
Residents, §23-18-309.

Investigations.
Rates and charges.
Public service commission,
§23-4-908.

Jurisdiction.
Public service commission, §23-18-308.
Rates and charges.
Public service commission.
Jurisdiction not affected,
§23-4-907.

Liberal construction of act,
§23-18-303.

Meetings.
Directors' meetings, §23-18-321.
Quorum of members, §23-18-320.

Members.
Certificate of membership, §23-18-319.
Surrender, §23-18-319.
Defined, §23-18-302.
Eligibility to membership, §23-18-318.
Organizational meeting.
Notice, §23-18-316.
Quorum, §23-18-320.

Nonprofit operation, §23-18-327.

Notice.
Organizational meeting, §23-18-316.
Rates and charges.
Changes.
Proposed rate changes, §23-4-903.

Obligations.
Defined, §23-18-302.

Other laws inapplicable, §23-18-304.

Person.
Defined, §23-18-302.

Petitions.
Rates and charges.
Petition for relief from rate change,
§§23-4-904, 23-4-905.

ELECTRIC COOPERATIVE CORPORATIONS —Cont'd

Petitions —Cont'd
Rates and charges —Cont'd
Petition to declare co-op subject to
rate case procedures, §23-4-906.

Powers.
Generally, §23-18-307.

Public service commission.
Corporations subject to jurisdiction,
§§23-18-201, 23-18-308.

Purposes, §23-18-306.

Quorum.
Board of directors, §23-18-321.

Rates and charges.
Apportionment of rates and charges,
§23-4-909.
Changes.
Notice of proposed rate change,
§23-4-903.
Petition for relief from rate change.
Effect, §23-4-905.
Form, §23-4-904.
Relief from rate change.
Petition.
Effect, §23-4-905.
Form, §23-4-904.
Costs of providing service.
Apportionment of rates and charges,
§23-4-909.
Definitions, §23-4-901.
Exemption from rate case procedures,
§23-4-902.
Hearings.
Exemption from rate case
procedures, §23-4-902.
Investigations.
Public service commission,
§23-4-908.
Jurisdiction.
Public service commission.
Jurisdiction not affected,
§23-4-907.
Notice.
Changes.
Proposed rate changes, §23-4-903.
Petition for relief from rate changes,
§§23-4-904, 23-4-905.
Petition to declare co-op subject to rate
case procedures, §23-4-906.
Public service commission.
Investigations, §23-4-908.
Jurisdiction.
Not affected, §23-4-907.
Powers, §23-4-908.
Rate case procedures.
Exemption, §23-4-902.

ELECTRIC COOPERATIVE CORPORATIONS —Cont'd**Rates and charges —Cont'd**

Rate case procedures —Cont'd

Petition to declare co-op subject to rate case procedures, §23-4-906.

Revenues.

Use of revenues, §23-18-327.

Securities.

Exemptions from securities act, §23-18-330.

Service.

Incorporated areas, §23-18-331.

Short title, §23-18-301.**Taxation.**

Corporation subject to certain taxes, §23-18-328.

Exemption of corporation from certain taxes, §23-18-328.

Title.

Short title, §23-18-301.

Use of words "electric cooperative."

Prohibition, §23-18-310.

ELECTRICITY.**Arkansas renewable energy development act of 2001,**
§§23-18-601 to 23-18-604.**Avoided costs.**Public utilities, §§23-3-701 to 23-3-705.
See PUBLIC UTILITIES.**Bills, usage and payment records.**

Confidentiality of information, §23-2-304.

Coal.

Arkansas-mined coal.

Use by electric utilities, §23-18-105.

Confidentiality of information.

Electric utility bills, usage and payment records, §23-2-304.

Corporations.

Electric cooperative corporations, §§23-18-301 to 23-18-331.

See ELECTRIC COOPERATIVE CORPORATIONS.

Foreign electric light and power corporations.

Domestication.

Required, §23-3-108.

Service of process, §23-3-108.

Disconnections.

Protection against.

Power of public service commission, §23-2-304.

Electric cooperative corporations,
§§23-18-301 to 23-18-331.

See ELECTRIC COOPERATIVE CORPORATIONS.

ELECTRICITY —Cont'd**Major utility facilities.**

Environmental and economic protection, §§23-18-501 to 23-18-532.

See PUBLIC UTILITIES.

Municipal electric consolidated authorities.

General provisions.

See MUNICIPAL ELECTRIC CONSOLIDATED AUTHORITIES.

Public utilities generally.

See PUBLIC UTILITIES.

Rates and charges generally.

See PUBLIC UTILITIES.

Renewable energy development,
§§23-18-601 to 23-18-604.**Transfer of electric transmission lines.**

Approval of public service commission required, §23-3-102.

Transition costs.

Defined, recovery by electric utility, §23-4-209.

Waters and watercourses.

Navigable water crossings.

General provisions, §§23-3-501 to 23-3-513.

See PUBLIC UTILITIES.

ELECTRONIC FUNDS TRANSFERS.**Financial institutions.**

Stop-payment orders, §23-32-210.

EMBALMERS AND FUNERAL DIRECTORS.**Prepaid funeral services.**

See FUNERALS.

EMBEZZLEMENT.**Banks, §23-50-105.****Building and loan associations.**

Penalty, §23-38-401.

EMERGENCIES.**Insurance.**

Risk management.

Procurement of insurance or surety bonding under emergency conditions, §23-61-606.

Telephone and telegraph companies.

Immediate dispatch of public messages during war or civil commotion, §23-17-106.

Failure to give immediate dispatch. Misdemeanor, §23-17-106.

EMINENT DOMAIN.**Pipelines.****Fertilizer.**

Transportation of ammonia and other substances comprising fertilizer or used in its manufacture.

Companies operating under provisions, §23-15-105.

Right of pipeline companies.

Procedure in exercising right, §23-15-101.

Public utilities.

Environmental and economic protection, §23-18-528.

Rural telecommunications cooperatives.

Powers, §23-17-205.

Water power companies.**Costs.**

Payment, §23-18-406.

Damages.

Assessment, §23-18-406.

Jury, §23-18-406.

Payment, §23-18-406.

Forfeiture of rights for failure to pay, §23-18-406.

Deposit required pending litigation, §23-18-406.

Forfeiture of rights for failure to deposit, §23-18-406.

Guardian ad litem.

Proceedings against infants and insane persons, §23-18-406.

Insane persons.

Proceedings against.

Guardian ad litem appointed, §23-18-406.

Jury.

Assessment of compensation, §23-18-406.

Minors.

Proceedings against infants.

Guardian ad litem appointed, §23-18-406.

Notice.

Nonresident landowners, §23-18-406.

Petition, §23-18-406.

Contents, §23-18-406.

Power of eminent domain, §23-18-406.

Railroad in connection with construction of dams.

Acquisition of right of way, §23-18-407.

EMPLOYEE LEASING FIRMS.**Commissioner.**

Rules and regulations.

License renewal, §23-92-311.

EMPLOYEE LEASING FIRMS

—Cont'd

Deceptive practices.

Commissioner may proscribe, §23-92-314.

Refusal, suspension or revocation of license.

Grounds, §23-92-312.

Fraud.

Refusal, suspension or revocation of license.

Grounds, §23-92-312.

Licenses.

Issuance, §23-92-312.

Reciprocity, §23-92-310.

Refusal, suspension or revocation, §§23-92-312, 23-92-313.

Renewal, §23-92-311.

Restricted out-of-state certificate, §23-92-310.

Notice on first page of proposal, requirement, §23-92-316.

Prohibited conduct, §23-92-316.

Purporting to be sole employer of leased employees.

Prohibited conduct, §23-92-316.

Reciprocity.

Licenses, §23-92-310.

Responsibilities, §23-92-315.

Rules and regulations.

Commissioner.

License renewal, §23-92-311.

Status.

Employer of leased employees, §23-92-315.

Taxation.

Responsibility of licensed firms, §23-92-315.

Transacting insurance prohibited, §23-92-316.

Workers' compensation.

Coverage of employees by workers' compensation insurance.

Responsibilities of licensed firms, §23-92-315.

EMPLOYERS AND EMPLOYEES.**Greyhound racing.**

Employees of franchise holders, §23-111-308.

Horse racing.

Employees of franchise holders, §§23-110-308, 23-110-412.

Public utilities.

Acts of employee are acts of corporation, §23-1-107.

ENERGY.**Public utilities.**

Energy conservation, §§23-3-401 to 23-3-405.

See PUBLIC UTILITIES.

Renewable energy development,

§§23-18-601 to 23-18-604.

ENGINES.**Railroads,** §23-12-401.**ENVIRONMENTAL QUALITY.****Public utilities.**

Environmental and economic protection, §§23-18-501 to 23-18-532.

See PUBLIC UTILITIES.

ESTATES.**Decedents' estates.**

General provisions.

See DECEDENTS' ESTATES.

ESTOPPEL.**Bonds, surety.**

Surety insurers.

Denying corporate power to be surety, §23-63-1004.

ETHICS.**Conflicts of interest.**

General provisions.

See CONFLICTS OF INTEREST.

EVIDENCE.**Bank department.**

Sealed instruments, §23-46-203.

Building and loan associations.

Suppressing evidence.

Penalty, §23-38-403.

Burden of proof.

General provisions.

See BURDEN OF PROOF.

Health maintenance organizations.

Coverage and charges for health care services, §23-76-112.

Highways.

State highway and transportation department.

Copies of official papers, §23-1-111.

Rules of evidence, §23-2-403.

Insurance.

Commissioner, §23-61-301.

Policies.

Applications, §23-79-106.

Surplus lines, §23-65-311.

Public service commission.

Copies of official papers, §23-1-111.

Rules of evidence, §23-2-403.

Rural telephone cooperatives.

Certificate of incorporation, §23-17-212.

EVIDENCE —Cont'd**Securities regulation.**

Violation of provisions, §23-42-105.

Title insurance.

Policies.

Evidentiary effect, §23-103-314.

Trust companies.

Commissioner's witness powers, §23-51-190.

Witnesses.

General provisions.

See WITNESSES.

EXAMINATIONS.**Banks.**

See BANKS.

Continuing care providers.

Insolvent facilities.

Financial examinations conducted, §23-93-114.

Credit unions.

Fees, §23-35-203.

Report, §23-35-203.

Supervisor to examine, §23-35-203.

Health maintenance organizations.

Taking when commissioner deems necessary, §23-76-122.

Hospital and medical service corporations.

Annual report and examination, §23-75-114.

Industrial loan institutions.

Fees for examinations, §23-36-107.

State bank commissioner to examine, §23-36-105.

Insurance.

Captive insurance companies, §23-63-1608.

Farmers' mutual aid associations.

Applicable provisions, §23-73-114.

Holding companies.

Power of commissioner, §23-63-516.

Legal insurance.

Affairs of insurers, §23-91-220.

Savings and loan associations.

Annual audit and examination procedure, §23-37-210.

Trust companies.

Assessments, §23-51-185.

Commissioner's duties, §23-51-184.

Offices, §23-51-181.

Timing, §23-51-185.

Voluntary liquidation, §23-51-159.

Witnesses.

General provisions.

See WITNESSES.

EXECUTIONS.**Fraternal benefit societies.**

Benefits not liable to attachment,
garnishment or other process,
§23-74-403.

Railroads.

Livestock.
Killing or injuring.
Judgments under provisions,
§23-12-906.

EXECUTORS AND ADMINISTRATORS.**Fiduciaries.**

Generally.
See FIDUCIARIES.

Railroads.

Corporations.
Voting of stock, §23-11-212.

EYE CARE PROVIDERS.**Health insurance.**

Primary eye care providers,
§§23-99-301 to 23-99-305.
See HEALTH INSURANCE.

F**FAIR MORTGAGE LENDING ACT.****Mortgage bankers, brokers and servicers.**

Licensing and regulation generally,
§§23-39-501 to 23-39-516.
See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

FALSE SWEARING.**Perjury.**

See PERJURY.

FARM CREDIT ACT OF 1971.**Financial institutions.**

Bond issues.
Authorized investments, §23-32-201.

FARMERS' MUTUAL AID ASSOCIATIONS.**Agents.**

Licensing, §23-73-121.

Amendments.

Articles or bylaws, §23-73-111.

Applicability of provisions,

§§23-73-102, 23-73-104.

Articles of association, §23-73-106.

Amendment, §23-73-111.

Bylaws, §23-73-110.

Amendments, §23-73-111.

Certificates of authority.

Continuance, §23-73-113.
Qualifications, §23-73-112.

FARMERS' MUTUAL AID ASSOCIATIONS —Cont'd**Contracts.**

Management and exclusive agency
contracts, §23-73-115.

Conversion to mutual insurer,

§23-73-117.

Definitions, §23-73-101.**Dissolution, §23-73-120.****Examinations.**

Applicable provisions, §23-73-114.

Exclusive nature of provisions,

§23-73-102.

Existing associations, §23-73-103.**Fees.**

Payment of annual fees or charges.
Not required, §23-73-116.

Formation.

Prohibited, §23-73-119.

Indemnification, §23-73-123.**Insurance, §§23-73-101 to 23-73-123.****Legal existence, §23-73-110.****Management and exclusive agency contracts, §23-73-115.****Membership, §§23-73-105, 23-73-118.**

Requirements, §23-73-119.

Merger, §23-73-122.**Names.**

Adoption of names, §23-73-107.

Organizations, §23-73-105.**Other provisions applicable,**

§23-73-104.

Scope of chapter, §23-73-102.**Transaction of business, §23-73-110.****FARM PRODUCTS.****Agriculture.**

General provisions.
See AGRICULTURE.

FEDERAL AID.**Public service commission.**

Certain loans not within jurisdiction of
commission, §23-18-202.

FEES.**ATM'S, §23-32-208.**

Shared terminals, §23-48-810.

Automatic teller machines,

§23-32-208.

Shared terminals, §23-48-810.

Automobile clubs or associations.

Agents.

Licenses.

Annual license fee, §23-77-108.

Certificates of authority, §23-77-106.

Aviation.

Air commerce.

Transportation commission,
§23-14-128.

FEES —Cont'd**Bank department.**

Disposition, §23-46-209.

Sealed instruments, §23-46-203.

Banking board.

Applications, §23-46-404.

Banks.

Application to establish branches.

Filing fee, §23-48-703.

Automatic teller machines.

Shared terminals, §23-48-810.

Banking board.

Applications, §23-46-404.

Examinations, §23-46-509.

Interstate mergers and branching.

Collection and dispersal, §23-48-907.

Filing fee, §23-48-905.

Organization and incorporation.

Promoter's fees prohibited,
§23-48-303.**Carriers.**

See CARRIERS.

Check-cashers.

Disclosure of fees, §23-52-105.

Permissible fees, §23-52-104.

Permit fees, §§23-52-108, 23-52-109.

Continuing care providers.

Facility entrance fee.

Defined, §23-93-201.

Licensed application fees, §23-93-206.

Credit unions.Examination by state credit union
supervisor, §23-35-203.

Supervision fee.

Annual fee, §23-35-205.

**Customer-bank communication
terminals, §23-32-208.****Debit cards.**

Usage fee, §23-32-208.

Electric cooperative corporations.

Annual license fee, §23-18-329.

Filing fees, §23-18-326.

Financial institutions.

Automatic teller machines, §23-32-208.

Fraternal benefit societies.

Licenses, §23-74-603.

Greyhound racing.Franchises to conduct races,
§23-111-305.

Licenses.

See GREYHOUND RACING.

Health maintenance organizations.Payment of fees to commissioner,
§23-76-127.**Highways.**State highway and transportation
department.

Schedule of fees, §23-2-314.

FEES —Cont'd**Horse racing.**

See HORSE RACING.

**Hospital and medical service
corporations.**

Certificates of authority, §23-75-107.

Insurance.

See INSURANCE.

Insurance department trust fund.General provisions, §§23-61-701 to
23-61-711.**Legal insurance.**

Payment to commissioner, §23-91-225.

**Mortgage bankers, brokers and
servicers.**Acquiring control of licensee,
§23-39-506.

Examination of business, §23-39-514.

Licenses, filing fee, §23-39-505.

Renewal of license, §23-39-506.

Motor carrier act of 1955.

Exempt carriers.

Insurance filing fee, §23-13-265.

Motor carriers.Annual fees charged carriers,
§23-13-235.Certificates of public convenience and
necessity.

Application fee, §23-13-219.

Transfer, §23-13-232.

Permits.

Application fees, §23-13-223.

Transfer, §23-13-232.

Temporary authority, §23-13-229.

Motor vehicles.

See MOTOR VEHICLES.

Pipelines.

Safety act.

Inspection fees, §23-15-214.

**Professional employer
organizations.**Employer service assurance
organization affidavit, §23-92-414.

Licenses, §23-92-407.

Public service commission.

Schedule of fees, §23-2-314.

Public utilities.Actions for fees brought in name of
state, §23-1-109.Annual fees charged utilities,
§23-3-110.

Failure or refusal to pay.

Penalty, §23-3-110.

Statement of fees due, §23-3-110.

Time for payment, §23-3-110.

Carriers, §§23-16-101 to 23-16-106.

See CARRIERS.

FEES —Cont'd**Public utilities —Cont'd**

- Environmental and economic protection.
- Certificates of environmental compatibility and public need.
- Application fee, §23-18-512.
- Public service commission.
- Schedule of fees, §23-2-314.

Railroads.

- Annual fee collected from rail carriers, §23-16-104.
- Carriers generally, §§23-16-101 to 23-16-106.
- See CARRIERS.
- Corporations.
- Amendment of articles of incorporation, §23-11-220.
- Foreign corporations.
- Fees charged foreign companies, §23-3-111.
- Incorporation fees, §23-11-102.
- Incorporation fees, §23-11-102.

Rural telephone cooperatives.

- Enumerated, §23-17-226.
- Membership fees, §23-17-216.

Savings and loan associations.

- Collection by supervisor, §23-37-107.
- Membership charges.
- Prohibited, §23-37-405.

Securities regulation.

- Registration statements, §23-42-404.
- Take-over offers.
- Filing fees, §23-43-117.

Telephone and telegraph companies.

- Initiation of residential telephone service.
- Payments of fees in installments, §23-17-116.
- Surcharges to provide communications for deaf and hearing impaired, §23-17-119.

Telephones.

- Surcharges to provide communications for deaf and hearing impaired, §23-17-119.

Title insurance.

- Agents.
- Licenses, §23-103-204.

Trust companies.

- Acquisition.
- Filing fee, §23-51-135.
- Application for charter.
- Filing fees, §23-51-106.
- Examination assessment, §23-51-185.

Trustees.

- Trustee of fiduciary fees, §23-51-194.

FELONIES.**Amusement rides and attractions.**

- Operation without safety inspection and insurance.
- Willful or knowing violation, §23-89-504.

Banks.

- Bribery, §23-50-106.
- Acceptance of bribes, §23-50-108.
- Embezzlement or misuse of funds, §23-50-105.
- Examiners.
- Disclosure or falsification of information, §23-50-109.
- False reports by commissioners or examiners, §23-50-108.
- Falsification of records, §23-50-106.
- Misleading use of name or title, §23-50-103.
- Trust accounts.
- Loans of trust funds to officers and employees, §23-47-707.

Bucket shops.

- Commodities futures, §23-44-102.

Building and loan associations.

- Embezzlement, unauthorized acts, etc., §23-38-401.
- Suppressing evidence, §23-38-403.

Commodities futures.

- Bucket shops, §23-44-102.

Credit unions.

- False reports, §23-35-805.
- Misleading conduct, §23-35-801.
- Officers, directors, etc.
- Prohibited acts, §23-35-803.
- Prohibited actions by officers and employees, §23-35-803.
- Use of words "credit union," §23-35-801.

Dogs.

- Racing.
- Improper wagering, §23-111-508.

Fraud.

- Securities, §23-42-104.

Horse racing.

- Improper wagering, §23-110-405.

Insurance.

- Domestic stock and mutual insurers.
- Concealment or removal of records from home office, §23-69-134.
- False or misleading statements, §23-60-109.
- Fraudulent insurance acts, §23-66-512.
- Misrepresentation of other policies, §23-66-306.

Loan brokers.

- Advance fee loan brokers, §23-39-405.

FELONIES —Cont'd

Mortgage bankers, brokers and servicers, §23-39-516.

Names.**Banks.**

Misleading use of name or title,
§23-50-103.

Financial institutions.

Unauthorized use of name or title,
§23-32-209.

Public utilities.

False testimony or reports, §23-1-105.

Railroads.

Operation and maintenance.

Unsafe tracks, bridges, etc.,
§23-12-103.

Securities, §23-42-104.

Takeover protection violations,
§23-43-105.

Title insurance.

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.

Trust companies.

Conflicts of interest, §23-51-145.

Falsification of information,
§23-51-144.

FENCES.**Railroads.**

Removal of fences for public
convenience, §23-12-308.

Notice to remove fence, §23-12-308.

Refusal to remove.

Penalty, §23-12-308.

Time allowed, §23-12-308.

FERTILIZERS.**Pipelines.**

Transportation of ammonia and other
substances comprising fertilizer or
used in its manufacture,
§23-15-105.

FIDUCIARIES.**Agents.**

General provisions.

See AGENTS.

Health maintenance organizations.

Responsibilities of directors and
officers, §23-76-111.

Insurance.

Licensees.

Fiduciary duties, §23-64-223.

Investment advisers.

Securities regulation.

See SECURITIES REGULATIONS.

Railroads.

Corporations.

Voting of stock, §23-11-212.

FIDUCIARIES —Cont'd**Receivers.**

See RECEIVERS.

Savings and loan associations.

Savings accounts, §23-37-503.

Trusts and trustees.

General provisions.

See TRUSTS AND TRUSTEES.

FINANCE.**Banks.**

General provisions.

See BANKS.

Bond issues.

General provisions.

See BOND ISSUES.

Checks.

Sale of checks act, §§23-41-101 to
23-41-122.

See CHECKS.

Contracts.

Public contracts.

See CONTRACTS.

FINANCIAL INSTITUTIONS.**Accounts.**

Multiple persons, §23-32-207.

Agents.

Designation on certificates of deposit,
§§23-32-501 to 23-32-507.

Agricultural lands.

Loans secured by liens.

Prepayment privileges, §23-32-203.

Banks, generally, §§23-45-101 to
23-50-110.

See BANKS.

Bonds, surety.

Exemptions, §§23-32-301 to 23-32-305.

Applicability of other laws,
§23-32-303.

Construction and interpretation,
§23-32-304.

Purpose of act, §23-32-302.

Title of act, §23-32-301.

Transactions exempt from posting
bond, §23-32-305.

Building and loan associations.

General provisions, §§23-38-101 to
23-38-404.

See BUILDING AND LOAN
ASSOCIATIONS.

Casualty insurance.

Mortgage loans.

Replacement cost coverage,
§23-32-206.

Certificates of deposit.

Agency designation, §§23-32-501 to
23-32-507.

Conflict of laws, §23-32-509.

Definitions, §23-32-501.

FINANCIAL INSTITUTIONS —Cont'd**Certificates of deposit —Cont'd**

Agency designation —Cont'd

Designation of agent, §23-32-504.

Disability or incapacity, §23-32-504.

Discharge of financial institution,
§23-32-507.

Forms, §23-32-503.

Payments to agent, §23-32-505.

Payments to minors, §23-32-506.

Scope, §23-32-502.

Setoffs, §23-32-508.

Termination, §23-32-504.

Multiple persons, §23-32-207.

Checking accounts, §23-32-207.**Compensating tax.**

Savings and loan institutions.

Applicability of act, §23-37-108.

Conflict of laws.Agency designation on certificates of
deposit, §23-32-509.**Construction and interpretation.**Surety bond exemption act,
§23-32-304.**Credit unions, §§23-35-101 to
23-35-805.**

See CREDIT UNIONS.

Criminal law and procedure.Loans secured by liens on agricultural
lands.Violation of prepayment privileges,
§23-32-203.Unauthorized use of name or title,
§23-32-209.**Customer-bank communication
terminals.**

Sharing, §23-32-208.

Deposits, §23-32-207.**Duties, §§23-32-201 to 23-32-209.****Electronic funds transfers.**

Stop-payment orders, §23-32-210.

Farm credit act of 1971.

Bond issues.

Authorized investments, §23-32-201.

Fees.

Automatic teller machines, §23-32-208.

Felonies.Unauthorized use of name or title,
§23-32-209.**Fines.**Unauthorized use of name or title,
§23-32-209.**Forcible entry and detainer.**

Surety bond exemptions, §23-32-305.

Foreclosures.

Surety bond exemption, §23-32-305.

FINANCIAL INSTITUTIONS —Cont'd**Foreign investor companies,**

§§23-32-401 to 23-32-406.

General provisions.

See FOREIGN INVESTOR
COMPANIES.**Garnishment.**

Surety bond exemption, §23-32-305.

Gross receipts tax.

Savings and loan institutions.

Applicability of provisions,
§23-37-108.**Industrial loan institutions,**

§§23-36-101 to 23-36-117.

See INDUSTRIAL LOAN
INSTITUTIONS.**Loans.**Agricultural liens as securities,
§23-32-203.

Mortgage loans.

Sale of certain mortgage loans,
§23-32-204.Servicemen's Readjustment Act,
§23-32-205.**Misdemeanors.**Loans secured by liens on agricultural
lands.Violation of prepayment privileges,
§23-32-203.**Mortgage bankers, brokers and
servicers.**See MORTGAGE BANKERS,
BROKERS AND SERVICERS.**Mortgage loans.**

Casualty insurance.

Replacement cost coverage,
§23-32-206.Sale of certain mortgage loans,
§23-32-204.**Names.**Restrictions on use of certain phrases,
§23-32-209.**Penalties.**

Building and loan associations.

See BUILDING AND LOAN
ASSOCIATIONS.**Powers and duties, §§23-32-201 to
23-32-210.****Prison terms.**Unauthorized use of name or title,
§23-32-209.**Real property.**

Building and loan associations.

Investments, §23-38-213.

Valuation of assets, §23-38-214.

Replevin.

Surety bond exemption, §23-32-305.

Savings accounts, §23-32-207.

FINANCIAL INSTITUTIONS —Cont'd**Savings and loan associations.**

General provisions, §§23-37-101 to 23-37-706.

See SAVINGS AND LOAN ASSOCIATIONS.

Securities regulation.

General provisions, §§23-42-101 to 23-42-509.

See SECURITIES REGULATIONS.

Servicemen's Readjustment Act.

Loans, §23-32-205.

Setoffs.

Agency accounts, §23-32-508.

Stock and stockholders.

Building and loan associations.

See BUILDING AND LOAN ASSOCIATIONS.

Industrial loan institutions, §§23-36-102, 23-36-103.

Trust companies, §§23-51-101 to 23-51-211.

See TRUST COMPANIES.

Withdrawals, §23-32-207.**FINES.****Air commerce regulations, §23-14-104.****Automobile clubs or associations.**

Failure to comply with provisions, §23-77-103.

Bank holding companies.

Violations of subchapter, §23-48-403.

Banks.

Bank holding companies.

Violations of subchapter, §23-48-403.

Embezzlement or misuse of funds, §23-50-105.

Misleading use of name or title, §23-50-103.

Bucket shops.

Commodities futures, §23-44-102.

Building and loan associations.

Annual reports.

Failure to file, §23-38-102.

False statements injurious to association.

Circulation of, §23-38-404.

Publication of false advertisement or report of financial condition, §23-38-402.

Burial associations.

Failure to comply with provisions, §23-78-104.

False claim, promise or representation of agent, §23-78-114.

False entries in books, §23-78-118.

False statements, §23-78-111.

FINES —Cont'd**Carriers, §23-16-201.**

Agreements to pay charge for additional mode of transportation, §23-10-109.

Citizens band radios.

Violations of restrictions on use of equipment, §23-1-115.

Commodities futures.

Bucket shops, §23-44-102.

Commodities futures violations, §23-44-102.

Credit unions.

False reports, §23-35-805.

Misleading conduct as credit union, §23-35-801.

Officers, directors, etc.

Prohibited acts, §23-35-803.

Use of words "credit union," §23-35-801.

Dog racing.

Failure to appear or testify at hearings, §23-111-205.

Failure to comply with franchise, §23-111-501.

Failure to pay tax, §23-111-513.

False affidavits of officers and directors, §23-111-406.

Improper wagering, §23-111-508.

Issuance of sales tax-free passes, §23-111-510.

Driving under the influence, §23-13-258.**Financial institutions.**

Unauthorized use of name or title, §23-32-209.

Fraternal benefit societies.

Fraudulent statements or solicitations of membership, §23-74-703.

Fraud.

Burial association representatives, §23-78-114.

Insurance holding companies, §23-63-522.

Funeral benefits.

Sale of prepaid benefits, §23-40-106.

Health maintenance organizations.

Insolvency protection.

Hold harmless violations, §23-76-118.

Willful violations of chapter, §23-76-105.

Horse racing.

Compliance with license, §23-110-401.

Failure to pay tax, §23-110-415.

False applications for employment, §23-110-308.

Improper wagering, §23-110-405.

FINES —Cont'd**Horse racing —Cont'd**

Issuance of sales tax-free passes,
§23-110-411.

Insurance, §23-60-108.

Advertising by health and accident
insurers and prepaid health plans,
§23-66-316.

Domestic stock and mutual insurers.
Records.

Concealment or removal from
home office, §23-69-134.

False or misleading statements,
§23-60-109.

Fraudulent insurance acts, §23-66-512.

Holding companies, §23-63-522.

Cease and desist orders.

Failure to obey, §23-63-529.

Material transactions disclosures,
§23-63-1406.

Misrepresentation of other policies,
§23-66-306.

Prescription drug benefits, §23-79-149.

Surplus lines insurance.

Failure to file annual statement or
remit tax, §23-65-316.

Unauthorized insurance.

Cease and desist orders.

Failure to obey, §23-65-101.

Records produced on order.

Refusal to obey order, §23-65-104.

Mortgage bankers, brokers and servicers.

Change in managing principal or
branch manager.

Failure to give notice, §23-39-508.

Correcting amendment to information
filed.

Failure to file, §23-39-511.

Loan officer's employment terminated.

Requirement, failure to give,
§23-39-503.

Notice of change of location of office
where files maintained.

Failure to give, §23-39-509.

Motor carriers, §§23-13-257, 23-13-401.

Alcoholic beverages.

Operation while consuming or under
influence of, §23-13-258.

Carrier's responsibility for seating,
§23-13-406.

Operation without certificate or
permit, §23-13-234.

Passengers, §23-13-401.

Passengers refusal to take assigned
seat, §23-13-406.

Rest periods and hours of duty of
drivers, §23-13-101.

FINES —Cont'd**Motor vehicles.**

Licenses.

Dealers, distributors, manufacturers
and salespersons.

Enforcement of provisions,
§23-112-314.

Names.

Banks.

Misleading use of name or title,
§23-50-103.

Financial institutions.

Unauthorized use of name or title,
§23-32-209.

Pipelines.

Civil penalties, §23-15-211.

Prescription drug benefits.

Insurance, §23-79-149.

Professional employer organizations.

Penalties for violations, §23-92-412.

Property and casualty insurance guaranty.

Failure to pay assessments,
§23-90-113.

Property insurance.

Willful violations by insurer,
§23-88-204.

Public service commission, §23-2-409.**Public utilities, §23-3-304.****Railroads, §23-4-803.**

Access to railroad books by
commissioners, §23-4-718.

Announcements of departures,
destinations and track numbers,
§23-10-205.

Bulletin boards showing arrival and
departure times, §23-10-203.

Business solicitations of passengers,
§23-10-208.

Depot facilities, §23-10-201.

Employee receiving extra pay for
furnishing car to shipper,
§23-10-429.

Express offices and delivery,
§23-10-302.

Livestock or poultry.

Shipper's pass, §23-10-441.

Operation and maintenance.

Animals killed on railroad,
§23-12-806.

Blocks in frogs and guardrails,
§23-12-512.

Caboose cars, §23-12-403.

Discharge of firearms or throwing
objects, §23-12-804.

Engines, §23-12-401.

FINES —Cont'd**Railroads —Cont'd****Operation and maintenance —Cont'd**

Equipment on track motor cars,
§23-12-404.

Establishment, discontinuance or
modification of service,
§23-12-609.

First aid kits and drinking water,
§23-12-405.

Headlights, §23-12-402.

Hospital facilities provided in state,
§23-12-508.

Improper language in waiting rooms
or cars, §23-12-801.

Killing or injuring livestock,
§23-12-911.

Lights on switches, §23-12-408.

Maintenance of right-of-way,
§23-12-201.

Maintenance of way employees.
Drinking water furnished,
§23-12-511.

Repairs to cars, §23-12-407.

Shelters, §23-12-513.

Stopping train within town limits,
§23-12-606.

Telephone and telegraph operator
duty hours, §23-12-510.

Trespassers boarding trains,
§23-12-802.

Unsafe tracks, bridges, etc.,
§23-12-103.

Use of track as highway, §23-12-803.

Protection of passengers, §23-10-207.

Rates and charges, §23-4-605.

False reports regarding receipt of
money, §23-4-636.

Schedule of rates, §23-4-604.

Risk-based capital act.

Violations of provisions, §23-63-1314.

Savings and loan associations.

Cease and desist orders.

Failure to obey, §23-37-212.

Securities regulations.

Violations of subchapter, §23-42-308.

Telephone and telegraph companies.

Divulging contents or refusal to
transmit message, §23-17-109.

Overcharge by operators, §23-17-111.

Title insurance.

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.

Transportation carriers.

Penalties generally, §23-16-201.

FIRE DEPARTMENTS.**Fire protection districts.**

See FIRE PROTECTION DISTRICTS.

FIREFIGHTERS.**Fires and fire prevention.**

Arson generally.

See ARSON.

FIRE PROTECTION DISTRICTS.**Insurance.**

Rate credit on risks.

Legislative findings and intent,
§23-88-103.

Only for persons who pay dues and
subscription payments to
district, §23-88-103.

Rural fire protection districts,
§23-88-103.

Rural volunteer fire departments.

Rate credit on risks, §23-88-103.

Response to fire.

Insurer required to pay reasonable
costs of services from
insurance proceeds,
§23-88-102.

Written and signed release from
fire chief required prior to
disbursing remaining
proceeds, §23-88-102.

FIRES AND FIRE PREVENTION.**Arson generally.**

See ARSON.

Fire protection districts.

General provisions.

See FIRE PROTECTION
DISTRICTS.

Insurance.

Fire loss reporting act.

Property insurance, §§23-88-401 to
23-88-405.

Rating plans, fire protection impact
statement, §23-88-104.

Railroads.

Liability for fires, §23-12-913.

FOOD.**Medically necessary food or low protein modified food products.**

Children with phenylketonuria.

Definitions, §23-79-701.

Health insurance coverage,
§23-79-703.

Income tax credit for individual or
family of child, §23-79-702.

FORCIBLE ENTRY AND DETAINER.**Bonds, surety.**

Exemption for banks, §23-48-106.

Financial institutions.

Surety bond exemptions, §23-32-305.

FORECLOSURES.**Bonds, surety.**

Exemption from banks, §23-48-106.

FORECLOSURES —Cont'd**Financial institutions.**

Surety bond exemption, §23-32-305.

FOREIGN CORPORATIONS.**Foreign insurance companies.**

See INSURANCE.

FOREIGN HEALTH**ORGANIZATIONS.****Risk-based capital requirements for health organizations,**

§§23-63-1501 to 23-63-1512.

See INSURANCE.

FOREIGN INVESTOR COMPANIES,

§§23-32-401 to 23-32-406.

Applicability.

Corporations, §23-32-402.

Transactions, §23-32-403.

Authority to sue and be sued,

§23-32-405.

Defined, §23-32-401.**"Engaging in business."**

Transactions excluded, §23-32-403.

General business of chartered banks.

Unauthorized transactions,
§23-32-406.

Secretary of state.

Service of process.

Authority to sue and be sued,
§23-32-405.

Consent to service from secretary,
§23-32-404.

Service of process.

Consent to service from secretary of
state, §23-32-404.

Authority to sue and be sued,
§23-32-405.

Unauthorized transactions,

§23-32-406.

FORFEITURES.**Futures.**

Penalties for violations of provisions,
§23-44-102.

Insurance.

Annuities.

Nonforfeiture law for individual
deferred annuities.

See INSURANCE.

Life insurance.

Nonforfeiture law.

See LIFE INSURANCE.

Railroads.

Sale or lease of road or property.

See RAILROADS.

FORMS.**Agents.**

Certificates of deposit.

Agency designation, §23-47-303.

FORMS —Cont'd**Banks.**

Certificates of deposit.

Agency designation, §23-47-303.

Certificates of deposit.

Agency designation, §23-32-503.

Financial institutions.

Designation of agent on certificates of
deposit, §23-32-503.

Insurance.

See INSURANCE.

Power of attorney.

Agency designation on certificates of
deposit, §23-32-503.

Public utilities.

Filling out and returning, §23-3-112.

Securities regulation.

Commissioner.

Rules, forms and orders of
commissioner, §23-42-204.

FRANCHISES.**Greyhound racing.**

Franchise to conduct races.

See GREYHOUND RACING.

Horse racing.

Franchise to conduct races.

See HORSE RACING.

Public utilities.

Municipal franchises.

Violations.

Damages, §23-3-116.

Penalties, §23-3-116.

FRATERNAL BENEFIT SOCIETIES,

§§23-74-101 to 23-74-705.

Actions.

Indemnification or reimbursement of
persons threatened by, §23-74-203.

Adult membership.

Minimum age, §23-74-201.

Amendments to laws, §23-74-302.

Benefit contracts.

Binding and controlling, §23-74-404.

Annuities.

Contractual benefits provided by
societies, §23-74-401.

Appeals.

Decisions and findings of
commissioner of insurance.

Review of, §23-74-702.

Applicability of other code provisions, §23-74-705.**Articles of incorporation.**

Bonds, surety.

Applicants for incorporation,
§23-74-301.

Contents requirements, §23-74-301.

Filing, §23-74-301.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Articles of incorporation —Cont'd

Foreign or alien societies.

Filing prior to transacting business
in state, §23-74-605.

Organization generally, §23-74-301.

Assets.Held, invested and disbursed for use
and benefit of society, §23-74-502.**Assignments.**

Benefit contracts, §23-74-404.

Attachment.

Benefits not attachable, §23-74-403.

Attorney general.

Injunctions.

Domestic societies.

Commencing action, §23-74-606.

Recognition of proceedings.

Application or petition made by
attorney general upon request
of commissioner, §23-74-608.**Benefit contracts**, §23-74-404.

Amendments to laws.

Binding and controlling, §23-74-404.

Annuity benefits.

Contractual benefits provided by
societies, §23-74-401.

Assignment.

Terms and conditions, §23-74-404.

Attachment.

Benefits not liable to, §23-74-403.

Beneficiaries, §23-74-402.

Assets.

Prohibited from acquiring
individual rights in,
§23-74-502.

Changing beneficiaries, §23-74-402.

Designating, §23-74-402.

Cash surrender values, §23-74-405.

Certificates.

Defined, §23-74-104.

Issuance, §23-74-404.

Requirements, §23-74-404.

Standards for valuation, §23-74-601.

Valuation, §23-74-601.

Contractual benefits provided by
societies, §23-74-401.

Coverage.

Societies to specify persons covered
by contractual benefits,
§23-74-401.

Death benefits.

Contractual benefits provided by
societies, §23-74-401.

Defined, §23-74-104.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Benefit contracts —Cont'd

Disability benefits.

Temporary or permanent disability
benefits.Contractual benefits provided by
societies, §23-74-401.

Endowment benefits.

Contractual benefits provided by
societies, §23-74-401.

Funeral benefits.

Provision for payment of,
§23-74-402.

Garnishment.

Benefits not liable to, §23-74-403.

Generally, §23-74-404.

Hospital, medical or nursing benefits.

Contractual benefits provided by
societies, §23-74-401.

Laws.

Amendments.

Binding and controlling,
§23-74-404.

Liability.

Benefits not liable to attachment,
garnishment or other process,
§23-74-403.

Life insurers.

Benefits authorized for life insurers.

Contractual benefits provided by
societies, §23-74-401.

Loans.

Certificate loans, §23-74-405.

Minors.

Issuance of contract prior to
attaining age of majority.

Bound by term, §23-74-404.

Monument or tombstone benefits.

Contractual benefits provided by
societies, §23-74-401.

Nonforfeiture benefits, §23-74-405.

Personal representatives.

Payment of benefits to, §23-74-402.

Terms and conditions, §23-74-404.

Valuation of certificates.

Standards of, §23-74-601.

Benefit members.

Defined, §23-74-104.

Bonds, surety.

Articles of incorporation.

Applicants for incorporation,
§23-74-301.**Certificates of authority.**

Issuance, §23-74-301.

Preliminary certificates, §23-74-301.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Children's preventive health care act.

Generally, §23-79-141.

Consolidation, §23-74-305.**Contracts.**

Consolidation or merger, §23-74-305.

Conversion into mutual life**insurance companies, §23-74-306.****Death.**

Contractual benefits provided by societies.

Death benefits, §23-74-401.

Definitions, §23-74-101.

Generally, §23-74-104.

Lodge system, §23-74-102.

Representative form of government, §23-74-103.

Diabetes coverage, §§23-79-601 to 23-79-607.**Disabilities.**

Contractual benefits provided by societies.

Temporary or permanent disability benefits, §23-74-401.

Domestic societies.

Consolidation or merger, §23-74-305.

Conversion into mutual life insurance companies, §23-74-306.

Deficiencies.

Hearings, §23-74-606.

Injunctions, liquidation or receivership, §23-74-606.

Notice, §23-74-606.

Examination, §23-74-604.

Exemptions of certain societies, §23-74-704.

Hearings.

Injunctions, liquidation or receivership, §23-74-606.

Injunctions.

Grounds, §23-74-606.

Procedures, §23-74-606.

Liquidation.

Grounds, §23-74-606.

Procedure, §23-74-606.

Notice.

Deficiencies, §23-74-606.

Hearings.

Injunctions, liquidation or receivership, §23-74-606.

Organization.

Generally, §23-74-301.

Receivership.

Grounds, §23-74-606.

Procedure, §23-74-606.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Elections.

Officers of society, §23-74-103.

Supreme governing body.

Eligibility of members to vote, §23-74-103.

Endowments.

Contractual benefits provided by societies.

Endowment benefits, §23-74-401.

Examination of societies, §23-74-604.**Executions.**

Benefits not liable to attachment, garnishment or other process, §23-74-403.

Exemptions from general insurance laws, §23-74-503.**Exemptions of certain societies, §23-74-704.****Fees.**

Licenses, §23-74-603.

Foreign or alien societies.

Admission to state, §23-74-605.

Amendments to laws.

Filing, §23-74-302.

Articles of incorporation.

Filing prior to transacting business in state, §23-74-605.

Examination, §23-74-604.

Investments, §23-74-501.

Licenses.

Notice.

Suspension, revocation or refusal, §23-74-607.

Required to transact business in state, §23-74-605.

Suspension, revocation or refusal.

Grounds, §23-74-607.

Notice, §23-74-607.

Procedure, §23-74-607.

Notice.

Licenses.

Suspension, revocation or refusal, §23-74-607.

Qualifications.

Admission to state, §23-74-605.

Fraud.**Penalties.**

Fraudulent statements, §23-74-703.

Funds generally, §23-74-502.**Funerals.**

Contractual benefits.

Payment of funeral benefits, §23-74-402.

Garnishment.

Benefits not liable to garnishment, §23-74-403.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Hearings.

Domestic societies.

Injunctions, liquidation or
receivership, §23-74-606.

Examination of societies.

Opportunity to respond before
findings made public,
§23-74-604.**Hospital, medical or nursing
benefits.**Contractual benefits provided by
societies, §23-74-401.**Indemnification.**Persons indemnified and reimbursed
by societies, §23-74-203.**Injunctions.**

Domestic societies.

Grounds, §23-74-606.

Procedures, §23-74-606.

Recognition of proceedings.

Application or petition required to
be made by attorney general,
§23-74-608.**Institutions.**

Not-for-profit institutions.

Created, maintained and operated
by, §23-74-303.**Insurance.**Directors, officers, employees or
agents.Powers to purchase on behalf of,
§23-74-203.

General insurance laws.

Exemptions from, §23-74-503.

Life insurers.

Contractual benefits provided by
societies.Benefits as authorized for life
insurers, §23-74-401.

Mutual life insurance companies.

Conversion into, §23-74-306.

Reinsurance, §23-74-304.

Investments.Authorized investments, §23-74-501.
Funds, §23-74-502.**Laws.**

Amendments, §23-74-302.

Benefit contracts.

Amendments.

Binding and controlling,
§23-74-404.

Defined, §23-74-104.

Waiver, §23-74-204.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Liability.

Benefits.

Attachment, garnishment or other
process.

Benefits not liable for, §23-74-403.

Supreme governing body.

Officers and members.

Not personally liable for benefits
provided, §23-74-203.**Licenses.**

Agents, §23-74-609.

Exceptions to requirement,
§23-74-609.

Fees, §23-74-603.

Foreign or alien societies.

Required for transacting business in
state, §23-74-605.

Suspension, revocation or refusal.

Grounds, §23-74-607.

Notice, §23-74-607.

Procedure, §23-74-607.

Notice.

Foreign or alien societies.

Suspension, revocation or refusal,
§23-74-607.

Renewal, §23-74-603.

Suspension, revocation or refusal.

Foreign or alien societies,
§23-74-607.

Transacting business in state.

Required for, §23-74-603.

Liquidation.

Domestic societies.

Grounds, §23-74-606.

Procedure, §23-74-606.

Loans.

Benefit contracts.

Certificate loans, §23-74-405.

Lodges.

Defined, §23-74-104.

Lodge system, §23-74-102.

Children.

Organizing and operating lodges for
children, §23-74-102.

Subordinate lodges.

Meetings.

Required to hold regular meeting,
§23-74-102.**Meetings.**

Supreme governing body.

Where held, §23-74-202.

Membership.

Adult membership.

Minimum age, §23-74-201.

Age.

Adult membership.

Minimum age, §23-74-201.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Membership —Cont'd

Assets.

Members prohibited from acquiring individual rights, §23-74-502.

Classes.

Eligibility standards.

Provided for in laws or rules, §23-74-201.

Consolidations or mergers.

Text furnished to, §23-74-305.

Conversion into mutual life insurance companies.

Vote required, §23-74-306.

Grievance or complaint procedures.

Providing in laws or rules for, §23-74-202.

Qualifications, §23-74-201.

Rights in society.

Personal to members and not assignable, §23-74-201.

Social members, §23-74-201.

Merger, §23-74-305.**Minors.**

Benefit contracts.

Issuance prior to attaining age of majority.

Bound by terms, §23-74-404.

Children's preventive health care act.

Generally, §23-79-141.

Lodge system.

Organizing and operating lodges for children, §23-74-102.

Mutual life insurance companies.

Conversion into, §23-74-306.

Not-for-profit institutions.

Created, maintained and operated by societies, §23-74-303.

Notice.

Consolidations and mergers, §23-74-305.

Domestic societies.

Deficiency or deficiencies, §23-74-606.

Hearings.

Injunctions, liquidation or receivership, §23-74-606.

Examination of societies.

Opportunity to respond to before findings made public, §23-74-604.

Foreign or alien societies.

Licenses.

Suspension, revocation or refusal.

Notice of deficiency, §23-74-607.

Publication.

Required notice, §23-74-202.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Offices.

Domestic societies.

Location, §23-74-202.

Organization.

Generally, §23-74-301.

Other code provisions.

Applicability of, §23-74-705.

Penalties.

Generally, §23-74-703.

Reports.

Failure to file required reports, §23-74-602.

Perjury, §23-74-703.**Personal representatives.**

Contractual benefits.

Payment of benefits to, §23-74-402.

Powers.

Generally, §23-74-105.

Premiums.

Defined, §23-74-104.

Publication.

Notices.

Required notices, §23-74-202.

Purposes, §23-74-105.**Receivers.**

Domestic societies.

Receivership of domestic societies.

Grounds, §23-74-606.

Procedure, §23-74-606.

Records.

Certificates of authority, §23-74-301.

Registered agent.

Service of process, §23-74-701.

Reinsurance, §23-74-304.**Reports.**

Required reports, §23-74-602.

Failure to file.

Penalties, §23-74-602.

Representative form of government,

§23-74-103.

Liability of officers and members of supreme governing body.

Not personally liable for benefits provided, §23-74-203.

Officers of societies.

Election, §23-74-103.

Liability.

Not personally liable for benefits provided, §23-74-203.

Supreme governing body.

Consolidations and mergers.

Duties, §23-74-305.

Conversion into mutual life insurance companies.

Vote required, §23-74-306.

FRATERNAL BENEFIT SOCIETIES

—Cont'd

Representative form of government

—Cont'd

Supreme governing body —Cont'd

Election to body.

Eligibility of members to vote,
§23-74-103.

How constitutes, §23-74-103.

Liability.

Not personally liable for benefits
provided, §23-74-203.

Meetings.

Where held, §23-74-202.

Rules.

Defined, §23-74-104.

Service of process.

Registered agent, §23-74-701.

Taxation.

Exemptions from taxation, §23-74-504.

Trade practices act.

Subject to, §23-74-610.

**Unfair methods of competition and
unfair and deceptive acts and
practices, §23-74-610.****Valuation.**

Benefit contracts.

Certificates.

Standards of valuation,
§23-74-601.**Violations of chapter.**

Penalties generally, §23-74-703.

Waiver.

Laws of societies, §23-74-204.

FRAUD.**Employee leasing firms.**Refusal, suspension or revocation of
license.

Grounds, §23-92-312.

Fraternal benefit societies.

Penalties.

Fraudulent statements, §23-74-703.

Insurance.

False advertising.

Federal or state government
endorsement, §23-66-609.Fraudulent insurance acts,
§§23-66-501 to 23-66-513.

See INSURANCE.

Insurance fraud investigation division
trust fund, §§23-100-101 to
23-100-107.**Railroads.**

Passengers.

Protection of passengers from fraud,
§23-10-207.**FRAUD —Cont'd****Securities regulation.**

Securities fraud.

Criminal penalty for violations,
§23-42-104.Take-over offers, §§23-43-113 to
23-43-115.Enumeration of fraudulent or
deceptive practices, §23-43-114.Unlawful acts by investment advisers,
§23-42-307.Unlawful false or misleading
statements, §23-42-110.**Viatical settlements.**Fraud prevention and control,
§23-81-612.**FRAUDULENT INSURANCE ACTS,**

§§23-66-501 to 23-66-513.

See INSURANCE.

FREIGHT.**Carriers.**

General provisions.

See RAILROADS.

FUEL.**Oil and gas generally.**

See OIL AND GAS.

FUNDS.**Arkansas universal service fund.**Telecommunications regulatory reform,
§23-17-404.**Health maintenance organizations.**Fiduciary responsibilities of directors
and officers, §23-76-111.**Horse racing.**Arkansas racing commission purse
and awards funds, §23-110-409.**Industrial loan institutions.**

Deposit of funds, §23-36-114.

Insurance.

Companies.

Capital funds required, §23-63-205.

Insurance fraud investigation division
trust fund, §§23-100-101 to
23-100-107.

Reciprocal insurers.

Surplus funds required, §23-70-105.

Stipulated premium insurers.

Guaranty fund deposit, §23-71-110.

Insurance department trust fund.General provisions, §§23-61-701 to
23-61-711.

See INSURANCE.

Investor education fund, §23-42-213.**Motorcoach carrier incentive
program fund, §23-13-506.****Prepaid funeral benefits.**State insurance department prepaid
trust fund, §23-40-107.

FUNDS —Cont'd

Prepaid funeral contracts recovery program fund, §23-40-125.

Safety-net benefit fund.

Health insurance flexibility and accountability, §23-79-1004.

Savings and loan associations.

Expense fund required for mutual association, §23-37-306.

State insurance department prepaid trust fund.

Prepaid funeral benefits, §23-40-107.

Telecommunications.

Arkansas universal service fund (AUSF), §23-17-404.

Extension of facilities fund, §23-17-404.

Telephones.

Universal telephone service fund.
See TELEPHONES.

FUNERALS.**Definitions.**

Prepaid funeral services, §23-40-103.

Fraternal benefit societies.

Contractual benefits.

Payment of funeral benefits, §23-74-402.

Prepaid funeral services, §§23-40-101 to 23-40-125.

Administration of chapter, §23-40-108.

Employment of personnel, §23-40-108.

Bankruptcy.

Notice, §23-40-117.

Burial associations.

Exemptions, §23-40-105.

Cancellation of contract, §23-40-122.

Changes of ownership.

Approval, §23-40-113.

Liability of transferor, §23-40-113.

Waiver of requirement, §23-40-113.

Citation of act.

Short title, §23-40-101.

Compliance with act required, §23-40-124.

Contracts.

Cancellation, §23-40-122.

Designation of agent for depositing proceeds, §23-40-118.

Failure to deliver proceeds to agent, §23-40-118.

Requirements, §23-40-112.

Deadline.

Compliance with act, §23-40-124.

Definitions, §23-40-103.

Delinquency proceedings, §23-40-123.

Deposits.

Contract proceeds.

Designation of agent, §23-40-118.

FUNERALS —Cont'd**Prepaid funeral services —Cont'd**

Division of prepaid funeral benefits, §23-40-107.

Enforcement.

Delinquency proceedings, §23-40-123.

Exemptions.

Burial association, §23-40-105.

Generally, §23-40-104.

Fees.**Permits.**

Application fees, §23-40-110.

Records.

Examination fees, §23-40-120.

Reports.

Filing fees, §23-40-119.

Insurance commissioner.

Regulation of sale of prepaid benefits, §23-40-107.

Investigations.

Insurance fraud investigation division, §23-40-106.

Life insurance policy or annuity on contract.

Procurement by seller, notice to purchaser, §23-40-112.

Penalties.

Violation of act, §23-40-106.

Permits.**Applications.**

Fees, §23-40-110.

Initial or renewed permit, §23-40-110.

Cancellation, §23-40-111.

Denial, §23-40-111.

Issuance, §23-40-111.

Renewal.

Refusal to renew, §23-40-111.

Required, §23-40-109.

Sale without permit prohibited, §23-40-109.

Statement of net worth, §23-40-110.

Prepaid funeral contracts recovery program fund, §23-40-125.

Purpose of act, §23-40-102.

Records.

Examination, §23-40-120.

Fees, §23-40-120.

Required, §23-40-120.

Reports.

Annual report, §23-40-119.

Fees, §23-40-119.

Rules and regulations.

Promulgation, §23-40-108.

Short title, §23-40-101.

Trust funds.

Cancellation of contract, §23-40-122.

Created, §23-40-114.

FUNERALS —Cont'd**Prepaid funeral services —Cont'd****Trust funds —Cont'd**

Deposits, §23-40-114.

Disbursal, §23-40-116.

Exemption from attachment,
garnishment, etc., §23-40-117.

Investments, §23-40-115.

Suspension or prohibition of
disbursement, §23-40-114.

Withdrawals, §23-40-114.

Violation of act.

Penalties, §23-40-106.

FUTURES.**Advances.**

Recovery, §23-44-104.

Bucket shops.**Contracts.**Certain contracts null and void,
§23-44-105.

Maintenance prohibited, §23-44-106.

Name and location.

Furnished upon demand,
§23-44-109.

Prohibited, §23-44-106.

Contracts.**Bucket shops.**Certain contracts null and void,
§23-44-105.**Cotton.**Validity of contracts relating to
cotton, §23-44-103.

Exchanges and boards of trade.

Transmission of contracts,
§23-44-108.

Validity, §23-44-103.

Cotton.**Contracts.**Validity of contracts relating to
cotton, §23-44-103.**Definitions, §23-44-101.****Exchanges and boards of trade.**

Authorized, §23-44-107.

Contracts.Transmission of contracts,
§23-44-108.

Inspection of books, §23-44-107.

Number of members, §23-44-107.

Organization, §23-44-107.

Private or public wires.

Transmission of contracts,
§23-44-108.Use to secure market quotations,
§23-44-108.**Felonies.**Penalties for violations of provisions,
§23-44-102.**FUTURES —Cont'd****Forfeitures.**Penalties for violations of provisions,
§23-44-102.**Penalties.**

Violations of provisions, §23-44-102.

G**GAG CLAUSES.****Health insurance.**

Prohibition, §23-99-407.

GAMBLING.**Greyhound racing.**

Wagering.

See GREYHOUND RACING.

Horse racing.

Wagering.

See HORSE RACING.

Pari-mutuel wagering.

Greyhound racing, §23-111-508.

Horse racing, §23-110-405.

GARNISHMENT.**Bonds, surety.**

Exemption for banks, §23-48-106.

Financial institutions.

Surety bond exemption, §23-32-305.

Fraternal benefit societies.Benefits not liable to garnishment,
§23-74-403.**Insurance.**

Delinquency proceedings.

Assets, §23-68-120.

GAS.**General provisions.**

See OIL AND GAS.

GENERAL ASSEMBLY.**Railroads.**

Passes.

Members permitted to accept and
use passes, §23-4-804.**GENETIC INFORMATION****DISCLOSURE PROTECTION.****Insurance.**Genetic nondiscrimination in
insurance act, §23-66-320.**GIFTS.****Hospital and medical service
corporations.**Power to make donations for the
public welfare, §23-75-121.**GO KARTS.****Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

GOOD FAITH.**Motor vehicle manufacturers and dealers.**

Definition, §23-112-103.

GOVERNOR.**Railroads.**

Passes.

Permitted to accept and use pass,
§23-4-804.

Police.

Approval of appointment,
§23-12-701.

GRANTS.**Telecommunications.**

Extension of services to citizens not
served by wire line, §23-17-404.

GREYHOUND RACING.

Additional racing days, §§23-111-502,
23-111-505, 23-111-515.

Admission tax, §23-111-510.

Affidavits.

Residence of officers and directors of
franchise holders, §23-111-406.

Penalty for false affidavit,
§23-111-406.

Appeals.

Franchises to conduct races.

Refusal to grant temporary
franchise, §23-111-302.

Applicability of provisions.

Nonapplicability to other methods or
forms of racing, §23-111-102.

Bonds, surety.

Franchise holders, §23-111-514.

Citation of law.

Short title, §23-111-101.

Community colleges.

Racing meets.

Use of revenue derived from
additional racing days,
§23-111-515.

Conflicts of interest.

Racing commission.

Persons prohibited from
membership, §23-111-202.

Employees.

Health insurance.

Proceeds from wagering to fund,
§23-111-516.

Fees.

Franchises to conduct races,
§23-111-305.

Licenses.

Disposition of license fees,
§23-111-104.

Greyhound owners, §23-111-507.

GREYHOUND RACING —Cont'd**Fees —Cont'd**

Licenses —Cont'd

Greyhound trainers, §23-111-507.

Racing meets, §23-111-506.

Felonies.

Wagering.

Methods other than pari-mutuel or
certificate method, §23-111-508.

Franchises to conduct races.

Appeals.

Refusal to grant temporary
franchise, §23-111-302.

Applications for, §23-111-302.

Additional information, §23-111-404.

Deposit to accompany, §23-111-302.

Bonds, surety.

Franchise holder, §23-111-514.

Construction of racing plant,
§23-111-305.

Elections.

Approval of electors required,
§23-111-303.

Ballots, §23-111-304.

Conduct of elections, §23-111-304.

Contests, §23-111-304.

Generally, §23-111-304.

Notice, §23-111-304.

Subsequent elections, §23-111-306.

Employees of franchise holders.

Health insurance.

Proceeds from wagering to fund,
§23-111-516.

Restrictions concerning, §23-111-308.

Fee, §23-111-305.

Granted prior to July 1, 1957,
§23-111-307.

Granting, §23-111-203.

Approval of electors required,
§23-111-303.

Limitations on issuance,
§23-111-301.

Health insurance for franchise holder's
employees, §23-111-516.

Hearing on application, §23-111-302.

Number of franchises.

Limitations, §23-111-301.

Officers, directors and shareholders of
franchise holder.

Additional information in
application for franchise,
§23-111-404.

Changes in management personnel
and ownership of stock.

Franchise holders to report,
§23-111-407.

Grounds for refusing franchise,
§23-111-405.

GREYHOUND RACING —Cont'd**Franchises to conduct races —Cont'd**

Officers, directors and shareholders of franchise holder —Cont'd

Investigations.

Considerations, §23-111-405.

Cooperation with federal and state officers and agencies, §23-111-408.

Power of commission, §23-111-405.

Special investigators, §23-111-409.

Legislative declaration, §23-111-401.

Principal stockholder.

Defined, §23-111-402.

Purpose of provisions, §23-111-401.

Residence requirement for officers and directors, §23-111-406.

Affidavit, §23-111-406.

Penalty for false affidavit, §23-111-406.

Supplemental nature of provisions, §23-111-403.

Racing meets.

Racing meets to be held only in accordance with franchises, §23-111-501.

Refusal of temporary franchise.

Grounds, §23-111-405.

Required, §23-111-501.

Temporary franchise, §23-111-302.

Greyhound owners.

Licenses.

Fee, §23-111-507.

Greyhound trainers.

Licenses.

Fee, §23-111-507.

Health insurance for franchise holder's employees, §23-111-516.**Hearings.**

Franchises to conduct races.

Hearing on application, §23-111-302.

Racing commission, §23-111-205.

Indigent persons.

Racing meetings.

Additional racing days.

Use of revenue derived from, §23-111-505.

Investigations.

Officers, directors and shareholders of franchise holders, §§23-111-405, 23-111-409.

Legalized, §23-111-301.**Licenses.**

Fees.

Disposition of license fees, §23-111-104.

Greyhound owners, §23-111-507.

Greyhound trainers, §23-111-507.

GREYHOUND RACING —Cont'd**Licenses —Cont'd**

Fees —Cont'd

Racing meets, §23-111-506.

Greyhound owners.

Fee, §23-111-507.

Greyhound trainers.

Fee, §23-111-507.

Racing meets, §23-111-506.

Application for, §23-111-506.

Fees, §23-111-506.

Required, §23-111-506.

Minors.

Employment by franchise holders.

Prohibited, §23-111-308.

Patrons at race tracks.

Prohibited, §23-111-308.

Wagering.

Prohibited, §23-111-508.

Misdemeanors.

Conducting racing meet other than in accordance with franchise, §23-111-501.

Nonpayment of taxes by franchise holders, §23-111-513.

Residence requirement for officers and directors of franchise holders.

False affidavit as to, §23-111-406.

Subpoenas of racing commission.

Noncompliance, §23-111-205.

Municipalities.

Racing meets.

Small municipalities.

Use of revenue derived from additional racing days, §23-111-515.

Notice.

Franchises to conduct races.

Elections, §23-111-304.

Passes.

Distribution, §23-111-105.

Maximum number, §23-111-105.

Penalties.

Conducting racing meet other than in accordance with franchise, §23-111-501.

Disposition of fines, §23-111-104.

Nonpayment of taxes by franchise holders, §23-111-513.

Residence requirement for officers and directors of franchise holders.

False affidavit as to, §23-111-406.

Subpoenas of racing commission.

Noncompliance, §23-111-205.

Wagering.

Methods other than pari-mutuel or certificate method, §23-111-508.

GREYHOUND RACING —Cont'd**Racing commission.**

- Construction of references to
“commission,” §23-111-201.
- Duties, §23-111-203.
- Hearings, §23-111-205.
- Persons prohibited from membership,
§23-111-202.
- Powers, §23-111-203.
- Right of entry, §23-111-512.
- Rules and regulations, §23-111-204.

Racing days.

- Additional racing days.
- Audits, §23-111-502.
- Benefit of small municipalities and
community colleges,
§23-111-515.
- Disaster victims, indigent persons
and educational purposes,
§23-111-505.
- Purposes for which held,
§23-111-505.

Racing meets.

- Additional racing days.
- Audits, §23-111-502.
- Deposit of net proceeds, §23-111-502.
- Distribution of net proceeds to
municipalities, §23-111-504.
- Purposes for which held,
§23-111-505.
- Rules and regulations, §23-111-503.
- Small municipalities and community
colleges, §23-111-515.
- Admission tax, §23-111-510.
- Community colleges.
- Additional racing days.
- Use of revenue derived from,
§23-111-515.
- Day racing, §23-111-502.
- Franchises to conduct races.
- Racing meets to be held only in
accordance with franchises,
§23-111-501.
- Holidays, §23-111-502.
- Hours, §23-111-502.
- Indigent persons.
- Additional racing days.
- Use of revenue derived from,
§23-111-505.
- Licenses, §23-111-506.
- Application for, §23-111-506.
- Fees, §23-111-506.
- Required, §23-111-506.
- Night racing, §23-111-502.
- Number of racing meets during year,
§23-111-502.

GREYHOUND RACING —Cont'd**Racing meets —Cont'd**

- Small municipalities.
- Additional racing days.
- Use of revenue derived from,
§23-111-515.

Racing passes.

- Distribution, §23-111-105.
- Maximum number, §23-111-105.

Records.

- Franchise holders, §23-111-511.
- Amount of moneys wagered,
§23-111-509.
- Racing commission to have access,
§23-111-512.

Rules and regulations.

- Racing commission, §23-111-204.

Subpoenas.

- Powers of racing commission,
§23-111-205.

Taxation.

- Admission tax, §23-111-510.
- Disposition of revenue, §23-111-517.
- Disposition of taxes, §23-111-104.

Title of law.

- Short title, §23-111-101.

Wagering.

- Disposition of moneys wagered,
§23-111-509.
- Health insurance for employees,
§23-111-516.

Felonies.

- Methods other than pari-mutuel or
certificate method, §23-111-508.

Minors.

- Betting by.
- Prohibited, §23-111-508.
- Pari-mutuel or certificate method.
- Authorized at licensed tracks,
§23-111-508.

Penalties.

- Methods other than pari-mutuel or
certificate method, §23-111-508.
- Simultaneously televised horse or
greyhound races, §23-111-508.
- Statutes prohibiting betting on racing.
Inapplicable, §23-111-103.

Witnesses.

- Powers of racing commission as to,
§23-111-205.

GRIEVANCE SYSTEMS.**Managed health care plans,**

- §§23-99-701 to 23-99-706.
- See HEALTH INSURANCE.

GROSS RECEIPTS TAX.**Banks.**

- Applicability, §23-48-101.

GROSS RECEIPTS TAX —Cont'd**Savings and loan associations.**

Applicability of provisions, §23-37-108.

GROUP AND BLANKET HEALTH INSURANCE.

See HEALTH INSURANCE.

GROUP LIFE INSURANCE AND ANNUITIES, §§23-83-101 to 23-83-126.**Assignment of rights, §23-83-125.**

Insurer.

Protection of insurer's rights,
§23-83-126.

Association groups, §23-83-106.**Authorized insurers.**

Placement, §23-83-123.

Conversion right.

Notice, §23-83-122.

Credit union groups, §23-83-105.**Debtor groups, §23-83-105.****Employee groups, §23-83-102.****Group requirements, §23-83-101.****Group types, §§23-83-102 to 23-83-106.****Incontestability provision,
§23-83-111.****Insurability provisions, §23-83-113.****Insurers.**

Assignment of rights.

Protection of insurer's rights,
§23-83-126.

Authorized insurers, §23-83-123.

Unauthorized insurers, §23-83-124.

Labor union groups, §23-83-103.**Placement with authorized insurers,
§23-83-123.****Policy.**

Age provision, §23-83-114.

Continuation of coverage during
disability, §23-83-120.

Conversion on termination of
eligibility, §§23-83-117, 23-83-118.

Conversion on termination of
eligibility provision, §23-83-117.

Copy of application attached,
§23-83-112.

Death pending conversion, §23-83-119.

Issuance of certificate to policyholder,
§23-83-116.

Payment of benefits, §23-83-115.

Payment of benefits provision,
§23-83-115.

Provisions, §§23-83-109 to 23-83-121.

Required provisions, §23-83-109.

Premiums.

Grace period for payment, §23-83-110.

Restrictions on coverage.

Certain groups, §23-83-107.

GROUP LIFE INSURANCE AND ANNUITIES —Cont'd**Restrictions on coverage —Cont'd**

Spouses and dependent children,
§23-83-108.

Trustee groups, §23-83-104.

Unauthorized insurers, §23-83-124.

GUARDIANS.**Fiduciaries.**

Generally.

See FIDUCIARIES.

Railroads.

Corporations.

Voting of stock, §23-11-212.

GYNECOLOGICAL SERVICES.**Health insurance.**

Required coverage, §23-99-406.

H**HAZARDOUS SUBSTANCES.****Transportation.**

Documents required, §23-12-406.

HEAD HUNTERS.**Professional employer**

organizations, §§23-92-401 to 23-92-419.

See PROFESSIONAL EMPLOYER
ORGANIZATIONS.

HEALTH.**Breast cancer.**

Mammography.

See CANCER.

Continuing care providers,

§§23-93-101 to 23-93-207.

See CONTINUING CARE
PROVIDERS.

Hospitals.

Hospital and medical service
corporations.

See HOSPITAL AND MEDICAL
SERVICE CORPORATIONS.

Insurance.

Comprehensive health insurance pool,
§§23-79-501 to 23-79-510.

See COMPREHENSIVE HEALTH
INSURANCE POOL.

Health care benefit providers.

See HEALTH INSURANCE.

Health insurance generally.

See HEALTH INSURANCE.

Health maintenance organizations.

See HEALTH MAINTENANCE
ORGANIZATIONS.

HEALTH —Cont'd**Maintenance organizations.**

General provisions, §§23-76-101 to 23-76-132.

See HEALTH MAINTENANCE ORGANIZATIONS.

Medical assistance.

Medicare.

See MEDICARE.

Medical service corporations.

See HOSPITAL AND MEDICAL SERVICE CORPORATIONS.

Mental health.

General provisions.

See MENTAL HEALTH.

Physicians and surgeons.

General provisions.

See PHYSICIANS AND SURGEONS.

HEALTH CARE PLANS.**Health maintenance organizations.**

Applicability of provisions to health care plans, §23-76-103.

Generally, §§23-76-101 to 23-76-132.

See HEALTH MAINTENANCE ORGANIZATIONS.

HEALTH CARE PORTABILITY AND ACCOUNTABILITY.**Comprehensive health insurance pool, §§23-79-501 to 23-79-514.**

See COMPREHENSIVE HEALTH INSURANCE POOL.

Generally, §§23-86-301 to 23-86-314.

See HEALTH INSURANCE.

HEALTH INSURANCE.**Actions.**

Policies.

Legal actions, §23-85-116.

Adopted minors.

Coverage for adopted minors, §23-79-137.

Agents.

Excess or rejected business, §23-64-225.

Alcoholic beverages.

Policy provisions, §23-85-126.

Provisions of chapter, §23-85-102.

Ambulance services.

Direct reimbursement, §23-79-148.

Beneficiaries.

Change of beneficiary, §23-85-117.

Benefits.

Portability and accountability.

Exceptions, §23-86-310.

Prohibition of reduction of benefits due to other insurance contracts, §23-85-132.

HEALTH INSURANCE —Cont'd**Breast cancer.**

Mammogram coverage, §23-79-140.

Mastectomies.

Required coverage, §23-99-405.

Cancer prescription medication coverage, §23-79-147.**Change of occupation, §23-85-119.****Children's preventive health care act, §23-79-141.****Claims.**

Forms, §23-85-111.

Standard claims form, §23-85-136.

Group and blanket health insurance, §23-86-117.

Notice of claims, §23-85-110.

Payment of claims, §§23-85-113, 23-85-114.

Time of payment, §23-85-113.

Competition.

Freedom of choice among health benefit plans, §§23-86-401 to 23-86-406.

Comprehensive health insurance pool, §§23-79-501 to 23-79-510.

See COMPREHENSIVE HEALTH INSURANCE POOL.

Confidentiality of information.

Portability and accountability.

Disclosure of information by health plan issuers, §23-86-313.

Consumer choice, §§23-79-801 to 23-79-805.

Citation, §23-79-801.

Definitions, §23-79-802.

Health benefits plan.

Defined, §23-79-802.

Optional plans not providing state-mandated benefits, §23-79-803.

Rulemaking to implement, §23-79-805.

Short title of act, §23-79-801.

State-mandated health benefits.

Defined, §23-79-802.

Optional plans not providing state-mandated benefits, §23-79-803.

Consumer protection, §§23-99-401 to 23-99-416.

Application of provisions, §23-99-416.

Applications of providers, §23-99-411.

Benefits, §23-99-404.

Continuity of care, §23-99-408.

Definitions, §23-99-403.

Disclosures, §23-99-413.

Enforcement, §23-99-415.

Gag clause, §23-99-407.

Grievances, §23-99-410.

HEALTH INSURANCE —Cont'd**Consumer protection —Cont'd**

- Legislative findings, §23-99-402.
- Mastectomies, §23-99-405.
- Prescription drugs, §23-99-409.
- Provider input, §23-99-412.
- Regulations, §23-99-414.
- Services, §23-99-406.
- Short title, §23-99-401.

Continuation of coverage.

- Group and blanket disability insurance, §23-86-114.

Continuity of care.

- Required, §23-99-408.

Controlled substances.

- Policy provisions, §23-85-126.

Counselors.

- Group and blanket health insurance.
- Mental health coverage, §23-86-113.

Craniomandibular disorder.

- Optional coverage to be offered, §23-79-150.

Credit life and disability insurance, §§23-87-101 to 23-87-119.

- See CREDIT LIFE AND DISABILITY INSURANCE.

Defenses.

- Policies.
- Time limit on certain defenses, §23-85-107.

Definitions.

- Outpatient services, §23-85-133.

Denial of benefits.

- Other insurance, §23-85-132.
- Group and blanket insurance, §23-86-111.

Dental point of service option, §§23-99-601 to 23-99-608.

- Applicability of subchapter, §23-99-608.
- Attorney General to defend subchapter, §23-99-607.
- Benefits offered same as offered through network, §23-99-604.
- Coverage for out-of-network dentists, §23-99-604.
- Definitions, §23-99-603.
- Effective date, §23-99-608.
- Enforcement authority of insurance Commissioner, §23-99-606.
- Findings of general assembly, §23-99-602.
- Purposes, §23-99-602.
- Rules and regulations, §23-99-605.
- Title of act, §23-99-601.

Diabetes coverage, §§23-79-601 to 23-79-607.**HEALTH INSURANCE —Cont'd****Disclosure requirements, §23-99-413.**

- Gag clause prohibition, §23-99-407.

Drive-thru deliveries.

- Required coverage, §23-99-404.

Drugs.

- Enforcement administration registry number protection, §23-66-702.
- Legislative declaration, §23-66-701.
- Prescriptions.
- Formulary for prescription drugs.
- Exceptions, §23-99-409.

Earnings.

- Relation of earnings to insurance, §23-85-122.

Entitlement notwithstanding policy provisions.

- Health services performed by professionals not licensed under Arkansas medical practices act, §23-79-114.
- Services performed by outpatient centers, §23-79-115.

Flexibility and accountability initiative, §§23-79-1001 to 23-79-1005.

- Duties of department of human services, §23-79-1005.
- Legislative findings, §23-79-1001.
- Medicaid demonstration initiative, §23-79-1002.
- Safety-net benefit fund, §23-79-1004.
- Safety-net benefit program, §23-79-1003.

Forms.

- Claims, §23-85-111.
- Policies, §23-85-104.

Franchise disability insurance law, §23-85-101.**Freedom of choice among health benefit plans, §§23-86-401 to 23-86-406.**

- Citation of provisions, §23-86-401.
- Definitions, §23-86-403.
- Legislative findings and intent, §23-86-402.
- Optional health benefit plans, §23-86-404.
- Pricing according to actuarial principles, §23-86-405.
- Short title, §23-86-401.
- Specific coverages not required by provisions, §23-86-406.

Gag clauses.

- Prohibition, §23-99-407.

General provisions, §§23-85-101 to 23-85-139.**Grace period, §23-85-108.**

HEALTH INSURANCE —Cont'd

Greyhound racing franchise holder's employees, §23-111-516.

Grievance procedures, §23-99-410.

Grievance systems and quality assessment and improvement systems.

Managed care plans, §§23-99-701 to 23-99-706.

Benefits offered, inapplicability of director's regulatory authority, §23-99-705.

Definitions, §23-99-702.

Grievance system, §23-99-703.

Insurance exempted from provisions, §23-99-705.

Legislative findings, §23-99-701.

Power to implement and enforce provisions, §23-99-706.

Quality assessment and improvement systems, §23-99-704.

Group and blanket health insurance, §§23-86-101 to 23-86-120.

Administration of benefits, §23-86-110.

Adopted minors.

Coverage for adopted minors, §23-79-137.

Applications.

Not required, §23-86-103.

Authorized insurers.

Placement of insurance exclusively with authorized insurers, §23-86-107.

Certificates.

Not required, §23-86-103.

Policies.

Application and certificates not required, §23-86-103.

Continuation of coverage, §23-86-114.

Optional continuation of benefit provisions, §23-86-109.

Persons hospitalized on date of termination of policy or contract, §23-86-116.

Conversion policy, §23-86-115.

Offer at termination of continued coverage, §23-86-114.

Counselors.

Mental health coverage for, §23-86-113.

Definitions.

Blanket accident and health insurance, §23-86-101.

Group accident and health insurance, §23-86-106.

HEALTH INSURANCE —Cont'd

Group and blanket health insurance —Cont'd

Denial of benefits.

Other insurance, §23-86-111.

Direct payment of hospital or medical services, §23-86-112.

Disclosures to policyholders.

Employees under comprehensive health insurance policy, §23-86-119.

Forms.

Standard disability insurance claim form, §23-86-117.

Hospice care coverage for terminally ill, §23-86-120.

Impairment of speech or hearing.

Hearing devices exempt from coverage, §23-79-130.

Offer of coverage, §23-79-130.

Rejection of coverage, §23-79-130.

Time for acceptance, §23-79-130.

Information disclosed to insured employees, §23-86-119.

In vitro fertilization.

Included as covered expense.

Required of companies doing business in state, §23-86-118.

Medicare supplement insurance, §§23-79-401 to 23-79-410.

Mental health.

Psychological examiner coverage, §23-79-142.

Mental illness, §23-86-113.

Payment of benefits, §23-86-104.

Minors.

Coverage.

Denial or restriction of coverage.

Certain policy provisions void, §23-79-144.

Payment of benefits, §23-86-104.

Optional continuation of benefit provisions, §23-86-109.

Other insurance.

Denial or reduction of benefits, §23-86-111.

Other like insurance.

Payment of benefits where other like insurance exists, §23-86-111.

Payment of benefits, §23-86-104.

Existence of other like insurance.

Effect, §23-86-111.

Policies.

Applications.

Not required, §23-86-103.

Certificates.

Not required, §23-86-103.

HEALTH INSURANCE —Cont'd**Group and blanket health insurance —Cont'd****Policies —Cont'd**

Direct payment of hospital or medical services, §23-86-112.

Provisions required, §§23-86-102, 23-86-108.

Premiums.

Conversion policy, §23-86-115.

Provisions required, §§23-86-102, 23-86-108.

Reduction of benefits.

Other insurance, §23-86-111.

Required provisions, §§23-86-102, 23-86-108.

Secondary carrier.

Administration of benefits, §23-86-110.

Standard disability insurance claim form, §23-86-117.

Substance abuse coverage, §23-79-139.

Test tube babies.**In vitro fertilization.**

Included as covered expense.

Required of companies doing business in state, §23-86-118.

Gynecological services.

Required coverage, §23-99-406.

Handicapped persons.**Policies.**

Exceptions to requirements, §23-85-131.

Health care benefit providers.

Reinsured or administered by third party administrators.

Applicability of code, §23-61-503.

Examination by insurance commissioner, §23-61-504.

Exceptions from act, §23-61-502.

Jurisdiction.

Insurance department, §23-61-503.

Purpose of subchapter, §23-61-501.

Purpose of subchapter, §23-61-501.

Rules and regulations.

Promulgation, §23-61-508.

Health care providers.

Applicability of provisions.

Exemptions, §23-99-209.

Citation of act.

Short title, §23-99-201.

Civil penalties, §23-99-207.

Definitions, §§23-99-203, 23-99-204.

Effective date of provisions, §23-99-208.

HEALTH INSURANCE —Cont'd**Health care providers —Cont'd**

Exemptions from provisions, §23-99-209.

Findings and intent of legislature, §23-99-202.

Health benefit plans.

Defined, §23-99-203.

Prohibited terms, §23-99-204.

Void provisions, §23-99-208.

Interpretation and construction, §23-99-205.

Legislative declaration, §23-99-202.

Prohibited acts, §23-99-206.

Title of act.

Short title, §23-99-201.

Hospice care coverage for terminally ill.

Offered to master group contract holder, §23-86-120.

Illegal occupations, §23-85-125.**In vitro fertilization.**

Coverage required, §23-85-137.

Group and blanket health insurance.

Coverage required, §23-86-118.

Late payment of claims by health carriers.

Penalty, §23-66-215.

Losses.

Proof, §23-85-112.

Major medical benefits coverage.

Individual health insurance coverage.

Renewal of policy, exceptions, §23-79-119.

Mammograms.

Coverage for mammogram screening of occult breast cancer.

Generally, §23-79-140.

Mandated health insurance benefits advisory commission, §§23-79-901 to 23-79-905.

Assessment of proposed mandated benefits.

Duties of commission, §23-79-903.

Composition, §23-79-902.

Contracting for services, §23-79-904.

Duties, §23-79-903.

Established, §23-79-902.

Internal operation, §23-79-902.

Legislative intent, §23-79-901.

Purpose of provisions, §23-79-901.

Reports, §23-79-905.

Staff assistance, §23-79-904.

Terms, §23-79-902.

Mastectomies.

Required coverage, §23-99-405.

Material transactions disclosures, §§23-63-1401 to 23-63-1406.

See INSURANCE.

HEALTH INSURANCE —Cont'd**Maternity.**

- Obstetrical and gynecological services.
- Required coverage, §23-99-406.
- Required coverage, §23-99-404.

Medically necessary foods or low protein modified food products.

- Individuals or families with children with phenylketonuria, §23-79-703.
- Definitions, §23-79-701.

Medicare.

- See MEDICARE.

Medicare supplement insurance,
§§23-79-401 to 23-79-410.**Mental health.**

- Applicability, §23-99-509.
- Definitions, §23-99-503.
- Enforcement, §23-99-511.
- Exclusions, §23-99-504.
- Exemptions.
 - Increased costs, §23-99-505.
- Group and blanket health insurance.
 - Minimum benefits, §23-86-113.
 - Payment of benefits, §23-86-104.
- Increased costs.
 - Exemption, §23-99-505.
- Intent of state, §23-99-502.
- Medical necessity, §23-99-507.
- Parity requirements, §23-99-506.
- Policies.
 - Exception to age limit, §23-85-131.
- Provisions permitted, §23-99-508.
- Psychological examiner coverage, §23-79-142.
- Required coverage, §§23-99-501 to 23-99-511.
- Rules and regulations, §23-99-510.
- Short title, §23-99-501.

Minors.

- Children's preventive health care act, §23-79-141.
- Denial or restriction of coverage.
 - Certain policy provisions void, §23-79-144.

Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.

- See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.

Newborn infants.

- Policies.
 - Coverage for newborn infants, §23-79-129.

Notice.

- Claims, §23-85-110.

Obstetrical services.

- Required coverage, §23-99-406.

HEALTH INSURANCE —Cont'd**Optional policy provisions,**

- §23-85-118.
- Other insurance with insurer, §23-85-121.
- State statutes conformity, §23-85-124.

Other insurance.

- Denial or reduction of benefits, §23-85-132.
- Group and blanket insurance, §23-86-111.

Outpatient services.

- Coverage required, §23-85-133.
- Definitions, §23-85-133.
- Waiver of coverage, §23-85-133.

Patient protection act of 1995.

- Generally, §§23-99-201 to 23-99-209.
- See within this heading, "Health care providers."

Phenylketonuria.

- Medically necessary food or low protein modified food products, §23-79-703.
- Definitions, §23-79-701.

Policies.

- Adopted minors.
 - Coverage for adopted minors, §23-79-137.
- Age limit, §23-85-131.
- Mentally retarded or physically handicapped dependents, §23-85-131.
- Misstatement of age, §23-85-120.
- Applications, §23-79-105.
- Autopsies, §23-85-115.
- Benefits.
 - Prohibition or reduction of benefits due to other insurance contracts, §23-85-132.
- Captions, §23-85-105.
- Change of beneficiary, §23-85-117.
- Change of occupation, §23-85-119.
- Changes in provisions, §23-85-106.
- Claim forms, §23-85-111.
- Claims.
 - Notice, §23-85-110.
- Conforming to statute, §23-85-130.
- Conformity with state statutes, §23-85-124.
- Conversion policies.
 - Group and blanket disability insurance, §§23-86-114, 23-86-115.
- Exemption of proceeds, §23-79-133.
- Forms, §23-85-104.
- Standard claim forms, §23-85-136.
- Grace period, §23-85-108.

HEALTH INSURANCE —Cont'd**Policies —Cont'd**

- Group and blanket health insurance.
 - Applications and certifications, §23-86-103.
 - Conversion policies, §§23-86-114, 23-86-115.
 - Direct payment of hospital or medical services, §23-86-112.
 - Required policy provisions, §§23-86-102, 23-86-108.
- Illegal occupations, §23-85-125.
- Intoxicants and controlled substances, §23-85-126.
- In vitro fertilization.
 - Coverage required, §23-85-137.
- Language simplification.
 - Purpose of provisions, §23-80-202.
- Language simplification, §§23-80-201 to 23-80-208. See within this heading, "Policy language simplification."
- Legal actions, §23-85-116.
- Medicare supplement insurance, §§23-79-401 to 23-79-410.
- Misstatement of age, §23-85-120.
- Newborn infant coverage, §23-79-129.
- Omissions, §23-85-105.
- Optional policy provisions, §23-85-118.
 - Other insurance with insurer, §23-85-121.
 - State statutes conformity, §23-85-124.
- Order of certain provisions, §23-85-127.
- Other insurance in this insurer, §23-85-121.
- Payment of claims, §23-85-114.
- Physical examinations, §23-85-115.
- Premiums.
 - Refund of unearned premiums upon death of insured, §23-85-134.
- Proof of loss, §23-85-112.
- Reciprocity, §23-85-129.
- Reinstatement, §23-85-109.
- Relation of earnings to insurance, §23-85-122.
- Renewal.
 - Refusal to renew policy, §23-85-128.
- Required provisions, §23-85-105.
- Requirements of other jurisdictions, §23-85-129.
- Sequence of policy provisions, §23-85-127.
- Standard claim forms, §23-85-136.
- Substance abuse coverage, §23-79-139.
- Substitutions, §23-85-105.
- Third party ownership, §23-85-103.

HEALTH INSURANCE —Cont'd**Policies —Cont'd**

- Time limit on certain defenses, §23-85-107.
- Time of payment of claims, §23-85-113.
- Unpaid premiums, §23-85-123.
- Policy language simplification,** §§23-80-201 to 23-80-208.
 - Applicability, §23-80-204.
 - Approval of forms, §23-80-208.
 - Authorization to use lower score, §23-80-207.
 - Citation of act, §23-80-201.
 - Company.
 - Defined, §23-80-203.
 - Construction, §23-80-205.
 - Insurer.
 - Defined, §23-80-203.
 - Minimum standards, §23-80-206.
 - Policy or policy form.
 - Defined, §23-80-203.
- Portability and accountability,** §§23-86-301 to 23-86-314.
 - Applicability, §23-86-302.
 - Availability of coverage.
 - Guaranteed for employers in group markets, §23-86-312.
 - Benefits.
 - Exceptions, §23-86-310.
 - Comprehensive health insurance pool, §§23-79-501 to 23-79-514.
 - See COMPREHENSIVE HEALTH INSURANCE POOL.
 - Construction and interpretation, §23-86-308.
 - Definitions, §23-86-303.
 - Disclosure of information.
 - Health plan insurers, §23-86-313.
 - Discrimination based on health status, §23-86-306.
 - Effective dates, §23-86-302.
 - Excepted benefits, §23-86-310.
 - Exclusion of certain plans, §23-86-314.
 - Exclusions.
 - Preexisting conditions.
 - Limitations on exclusions, §23-86-304.
 - Group health plan, §23-86-305.
 - Special rules, §23-86-309.
 - Group markets.
 - Guaranteed availability of coverage, §23-86-312.
 - Guaranteed renewability, §23-86-311.
 - Health status.
 - Prohibited discrimination, §23-86-306.
 - Limitation of actions, §23-86-302.

HEALTH INSURANCE —Cont'd**Portability and accountability**

—Cont'd

Multiple employer plans.

Guaranteed renewability,
§23-86-307.

Preexisting conditions.

Limitations on exclusions,
§23-86-304.

Renewability.

Guaranteed in multiple employer
plans, §23-86-307.Guaranteed renewability of coverage
for employers in group markets,
§23-86-311.

Rules and regulations.

Special rules for group health plans,
§23-86-309.

Title, §23-86-301.

Premiums.

Group and blanket health insurance.

Conversion policy, §23-86-115.

Method of payment.

Change, §23-85-139.

Small employer health insurance
purchasing groups, §23-86-510.

Unearned premiums.

Refund upon death of insured,
§23-85-134.

Unpaid premiums, §23-85-123.

Prescription drug benefits,

§23-79-149.

Cancer treatment medication,
§23-79-147.

Formulary for prescription drugs.

Procedure for exceptions,
§23-99-409.Uniformity of prescription drug cards,
§§23-80-401 to 23-80-409.See PRESCRIPTION DRUG CARD
UNIFORMITY.**Prescription drugs, §23-79-149.****Primary eye care providers.**

Citation of act.

Short title, §23-99-301.

Definitions, §23-99-302.

Health benefit plans.

Defined, §23-99-302.

Requirements, §23-99-303.

Remedies for violations, §23-99-305.

Right to receive treatment from
personal doctor.Provisions not to prevent treatment,
§23-99-304.

Title of act.

Short title, §23-99-301.

Proceeds.

Exemption of proceeds, §23-79-133.

HEALTH INSURANCE —Cont'd**Providers.**

Input required, §23-99-412.

Processing applications, §23-99-411.

Reciprocity.

Policies.

Requirements of other jurisdictions,
§23-85-129.**Reduction of benefits.**

Other insurance, §23-85-132.

Group and blanket insurance,
§23-86-111.**Reinstatement of policies, §23-85-109.****Renewal.**

Major medical benefits.

Individual health insurance
coverage, §23-79-119.

Refusal to renew, §23-85-128.

Reports.Mandated health insurance benefits
advisory commission, §23-79-905.**Risk-based capital act, §§23-63-1301
to 23-63-1316.**

See INSURANCE.

Rules and regulations.

Consumer protection, §23-99-414.

Mental health coverage, §23-99-510.

Safety-net benefit fund.Flexibility and accountability
initiative, §23-79-1004.**Safety-net benefit program.**Flexibility and accountability
initiative, §23-79-1003.**Scope of chapter, §23-85-102.****Small employer health insurance.**

Applicability of provisions, §23-86-203.

Effective date, §23-86-209.

Commissioner.

Defined, §23-86-202.

Suspension of certain provisions.

Discretion of commissioner,
§23-86-208.

Definitions, §23-86-202.

Effective date of provisions,
§23-86-209.

Health benefit plans.

Defined, §23-86-202.

Plans to which provisions apply,
§23-86-203.

Legislative declaration.

Purpose of provisions, §23-86-201.

Premiums.

Base premium rate.

Defined, §23-86-202.

Index rate.

Defined, §23-86-202.

New business premium rate.

Defined, §23-86-202.

HEALTH INSURANCE —Cont'd**Small employer health insurance —Cont'd****Premiums —Cont'd**

Rating period.

Defined, §23-86-202.

Restrictions as to rates, §23-86-204.

Suspension of certain provisions.

Discretion of commissioner,
§23-86-208.

Purpose of provisions, §23-86-201.

Records.Maintenance by small employer
carriers, §23-86-207.**Small employer health insurance
purchasing groups, §§23-86-501 to
23-86-512.****Administrative services.**

Providing to members, §23-86-506.

Benefits requirements, §23-86-504.

Board of directors.

Organization of group, §23-86-503.

Citation of act, §23-86-501.

Composition of groups, §23-86-503.

Conflicts of interest, §23-86-508.

Cooperation among groups,
§23-86-509.

Coverage requirements, §23-86-504.

Definitions, §23-86-502.

Eligibility, §23-86-503.

Enrollments, §23-86-503.

Filing of forms, §23-86-507.

Forms.

Filing of forms, §23-86-507.

Health insurance purchasing group
health carrier.

Defined, §23-86-502.

Market service, §23-86-512.

Nonprofit organization, §23-86-503.

Notice.State-mandated health benefits
plans.

Rejection, §23-86-505.

Pooling operations among groups,
§23-86-509.

Premiums, §23-86-510.

Reports.Administrative services to members,
§23-86-506.Rulemaking to implement provisions,
§23-86-511.

Size requirements, §23-86-503.

State-mandated health benefits plans.

Defined, §23-86-502.

Rejection, §23-86-505.

Title of act, §23-86-501.

Subrogation recovery, §23-79-146.**HEALTH INSURANCE —Cont'd****Substance abuse coverage,
§23-79-139.****Temporomandibular joint disorder.**Optional coverage to be offered,
§23-79-150.**Terminated producers.**

Settlement with, §23-64-231.

Test tube babies.

Group and blanket health insurance.

Coverage required, §23-86-118.

In vitro fertilization.

Coverage required, §23-85-137.

Third parties.

Ownership of policies, §23-85-103.

Unauthorized insurers.

Group and blanket health insurance.

Placement of insurance with
unauthorized insurers
prohibited, §23-86-107.**HEALTH MAINTENANCE
ORGANIZATIONS.****Administrative law.**

Proceedings, §23-76-126.

Advertising.

Untrue or misleading advertising.

Prohibited practices, §23-76-119.

Agents.

Regulation, §23-76-120.

Annual reports, §23-76-113.**Applicability of provisions,
§23-76-103.****Bonds, surety.**Directors, officers or partners,
§23-76-111.**Cancellation.**

Prohibited practices, §23-76-119.

Cancer.Mammogram screening of occult
breast cancer.

Coverage generally, §23-79-140.

Certificates of authority.

Applications, §23-76-107.

Fees, §23-76-127.

Issuance, §23-76-108.

Revocation, §23-76-123.

Suspension, §23-76-123.

Violations.Penalties and enforcement,
§23-76-105.**Changes in operation.**Information provided to enrollees,
§23-76-114.**Children's preventive health care
act.**

Generally, §23-79-141.

Claims.

Complaint system, §23-76-116.

HEALTH MAINTENANCE**ORGANIZATIONS —Cont'd****Commissioner of insurance.**

Definition of "commissioner,"
§23-76-102.

Competition.

Freedom of choice among health
benefit plans, §§23-86-401 to
23-86-406.

Complaint system.

Establishment, §23-76-116.
Maintenance, §23-76-116.

Comprehensive health insurance pool.

General provisions, §§23-79-501 to
23-79-510.

See COMPREHENSIVE HEALTH
INSURANCE POOL.

Included in definition of "insurer,"
§23-79-503.

Confidentiality of information.

Filings and reports as public
documents, §23-76-128.
Medical information, §23-76-129.

Conservation.

Nature of conservation, §23-76-124.

Construction and interpretation.

Relationship to other laws, §23-76-104.

Consumer choice in health insurance, §§23-79-801 to 23-79-805.**Continuation of benefits.**

Protection against insolvency,
§23-76-118.

Contracts.

Authority to contract.
Director of the department of health,
§23-76-130.
Hold harmless clauses.
Protection against insolvency,
§23-76-118.
Providers.
Powers as to contracting with,
§23-76-109.

Copayments.

Tax on, §23-76-131.

Craniomandibular disorder.

Optional coverage to be offered,
§23-79-150.

Definitions, §23-76-102.**Dental point of service option, §§23-99-601 to 23-99-608.****Diabetes coverage, §§23-79-601 to 23-79-607.****Duties.**

Generally, §23-76-109.

Emergency and special out-of-area services, indemnity benefits covering, §23-76-109.**HEALTH MAINTENANCE****ORGANIZATIONS —Cont'd****Enrollees.**

Information to enrollees, §23-76-114.
Open enrollment, §23-76-115.

Establishment.

Application, §23-76-107.
Guidelines, §23-76-107.

Evidence.

Coverage and charges for health care
services, §23-76-112.

Examinations.

Taking when commissioner deems
necessary, §23-76-122.

Exemption from application of law, §23-76-104.**Fees.**

Payment of fees to commissioner,
§23-76-127.

Fidelity insurance or bond for directors, officers or partners, §23-76-111.**Fiduciaries.**

Responsibilities of directors and
officers, §23-76-111.

Financial report, §23-76-113.**Fines.**

Insolvency protection.
Hold harmless violations,
§23-76-118.

Freedom of choice among health benefit plans, §§23-86-401 to 23-86-406.

Citation of provisions, §23-86-401.
Definitions, §23-86-403.
Legislative findings and intent,
§23-86-402.
Optional health benefit plans,
§23-86-404.
Pricing according to actuarial
principles, §23-86-405.
Short title, §23-86-401.
Specific coverages not required by
provisions, §23-86-406.

Funds.

Fiduciary responsibilities of directors
and officers, §23-76-111.

Governing body.

Members, §23-76-110.

Grievance systems and quality assessment and improvement programs, §§23-99-701 to 23-99-706.**Health insurance.**

Consumer choice in health insurance,
§§23-79-801 to 23-79-805.
Generally.
See HEALTH INSURANCE.

HEALTH MAINTENANCE ORGANIZATIONS —Cont'd

Hearings.

Administrative proceedings,
§23-76-126.

Hold harmless protection.

Insolvency protection, §23-76-118.
Prohibited practices as to, §23-76-119.

Hospital and medical service corporations.

Powers, §23-76-121.

Hospitals or medical facilities, constructing and operating, §23-76-109.

Indemnity benefits, offering, §23-76-109.

Information to enrollees, §23-76-114.

Insolvency.

Protection against insolvency,
§23-76-118.

Insurance code provisions expressly applicable, §23-76-104.

Investments.

Guidelines, §23-76-117.

Issuance of certificate of authority, §23-76-108.

Legislative findings, §23-76-101.

Licenses.

Requirement, §23-76-106.

Liquidation.

Nature of liquidation, §23-76-124.

Loans to medical groups, power to make, §23-76-109.

Mammograms.

Coverage for mammogram screening of
occult breast cancer.
Generally, §23-79-140.

Managed care plans.

Grievance systems and quality
assessment and improvement
systems, §§23-99-701 to 23-99-706.

Benefits offered, inapplicability of
director's regulatory authority,
§23-99-705.

Definitions, §23-99-702.

Grievance system, §23-99-703.

Insurance exempted from provisions,
§23-99-705.

Legislative findings, §23-99-701.

Power to implement and enforce
provisions, §23-99-706.

Quality assessment and
improvement systems,
§23-99-704.

Material changes in operation.

Information provided to enrollees,
§23-76-114.

Medical information.

Confidentiality, §23-76-129.

HEALTH MAINTENANCE ORGANIZATIONS —Cont'd

Minors.

Children's preventive health care act,
§23-79-141.

Nonrenewal.

Prohibited practices, §23-76-119.

Notice.

Rules and regulations.
Promulgation, §23-76-125.

Open enrollment, §23-76-115.

Penalties.

Violations, §23-76-105.

Point-of-service basis, indemnity benefits, §23-76-109.

Powers.

Generally, §23-76-109.
Insurers and hospital and medical
service corporations, §23-76-121.

Premiums.

Tax on premiums, §23-76-131.

Prescription drug benefits, §23-79-149.

Uniformity of prescription drug cards,
§§23-80-401 to 23-80-409.

See PRESCRIPTION DRUG CARD
UNIFORMITY.

Primary care physician required.

Postsecondary students.
Options for students, §23-76-132.

Prohibited practices, §23-76-119.

Providers.

Lists.
Information provided to enrollees,
§23-76-114.

Purpose, §23-76-101.

Quarterly financial reports, §23-76-113.

Rates and charges.

Evidence of coverage and charges for
health care services, §23-76-112.

Regulation of agents, §23-76-120.

Rehabilitation.

Nature of rehabilitation, §23-76-124.

Relationship to other laws, §23-76-104.

Reports.

Annual report, §23-76-113.
Filings and reports as public
documents, §23-76-128.
Information to enrollees, §23-76-114.
Medical information.

Confidentiality, §23-76-129.

Quarterly reports, §23-76-113.

Risk-based capital requirements for health organizations, §§23-63-1501 to 23-63-1512.

See INSURANCE.

HEALTH MAINTENANCE**ORGANIZATIONS —Cont'd****Rules and regulations.**

Promulgation by commissioner,
§§23-76-109, 23-76-125.

Scope of provisions, §23-76-103.**Security deposits.**

Protection against insolvency,
§23-76-118.

Solvency.

Protection against insolvency,
§23-76-118.

Stock and stockholders.

Investments, §23-76-117.

Subrogation recovery, §23-79-146.**Substance abuse coverage,
§23-79-139.****Suspension or revocation of
certificate of authority,
§23-76-123.****Taxation.**

Premiums and copayments.
Tax on, §23-76-131.

Temporomandibular joint disorder.

Optional coverage to be offered,
§23-79-150.

Violations.

Certificates of authority.
Penalties and enforcement,
§23-76-105.

HEARINGS.**Automobile clubs or associations.**

Insurance commissioner may conduct
hearings, §23-77-105.
Suspension or revocation of certificate,
§23-77-107.

Banking board, §23-46-406.

Final decisions, §23-46-407.
Notice of hearing, §23-46-405.

Banks.

Revocation of trust powers,
§23-47-709.

Checks.

Sale of checks act.
Investigations to determine
violations of chapter,
§23-41-121.
Revocation of licenses, §23-41-122.

Continuing care providers.

Licenses.
Disciplinary actions, §23-93-205.
Reconsideration of denied
application, §23-93-206.

Fraternal benefit societies.

Domestic societies.
Injunctions, liquidation or
receivership, §23-74-606.

HEARINGS —Cont'd**Fraternal benefit societies —Cont'd**

Examination of societies.
Opportunity to respond before
findings made public,
§23-74-604.

Greyhound racing.

Franchises to conduct races.
Hearing on application, §23-111-302.
Racing commission, §23-111-205.

Health maintenance organizations.

Administrative proceedings,
§23-76-126.

Highways.

State highway and transportation
department, §23-2-415.
Notice, §23-2-415.

Horse racing.

Franchises to conduct horse races.
Hearing on application, §23-110-302.
Racing commission, §23-110-205.

Insurance.

Burial associations, §§23-78-108,
23-78-124.

Certificates of authority.
Revocation or suspension,
§23-63-213.

Commissioner.

Conduct of hearings, §23-61-305.
Generally, §23-61-303.
Notice of hearing, §23-61-304.
Order on hearing, §23-61-306.
Delinquency proceedings, §23-68-118.

Policies.

Commercial property and casualty
insurance policies.
Violations of subchapter,
§23-79-305.
Risk-based capital act, §23-63-1308.
Risk-based capital requirements for
health organizations, §23-63-1507.
Risk-sharing plans for property and
casualty insurance.
Availability of any amount or kind of
insurance, §23-95-104.
Unfair competition and trade
practices, §23-66-209.

Motor carriers.

See MOTOR CARRIERS.

Motor vehicles.

Licenses.
Dealers, distributors, manufacturers
and salespersons.
Denial, revocation or suspension
of license, §§23-112-501 to
23-112-509.
Appeals, §23-112-506.
Call for hearing, §23-112-502.

HEARINGS —Cont'd**Motor vehicles —Cont'd****Licenses —Cont'd**

Dealers, distributors, manufacturers
and salespersons —Cont'd

Denial, revocation or suspension
of license —Cont'd

Conduct, §23-112-504.

Decisions, §23-112-505.

Exhaustion of remedies,
§23-112-507.

Location, §23-112-503.

Notice, §23-112-503.

Right to hearing, §23-112-501.

Rules of order or procedure,
§23-112-508.

Summons, citation and
subpoena, §23-112-509.

Public service commission, §23-2-415.

Environmental and economic
protection.

Certificates of environmental
compatibility and public need.

Hearing on application or
amendment, §§23-18-516 to
23-18-518.

Navigable water crossings.

Petition by river crossing proprietor.

Hearing on, §23-3-505.

Notice, §23-2-415.

Place for, §23-2-103.

Rehearings, §23-2-422.

Special commissioners for hearings,
§23-2-102.

Compensation, §23-2-102.

Public utilities.

Acquisition, control or merger.

Determination, §23-3-311.

Notice, §23-3-311.

Rehearing, §23-3-312.

Stay of order pending review,
§23-3-314.

Railroads.

Corporations.

Application for incorporation,
§23-11-205.

Crossings.

Proposed road or street crossings,
§23-12-304.

Risk-based capital act.

Confidential department hearings
upon happenings of certain
events, §23-63-1308.

**Risk-based capital requirements for
health organizations, §23-63-1507.****Savings and loan associations.**

Charters.

Applications, §23-37-309.

HEARINGS —Cont'd**Securities regulation.**

Take-over offers.

Expenses of hearing, §23-43-117.

Trust companies.

Acquisition of control, §23-51-136.

Petition for review of adverse
decision, §23-51-137.

Appeals.

Commissioner hearings, §23-51-112.

Charter applications, §23-51-108.

Commissioner's actions.

Notice and opportunity for hearing,
§23-51-189.

Procedure, §23-51-112.

HEIRS.**Franchises.**

Motor vehicles, §23-112-403.

Funerals.

Generally.

See FUNERALS.

Indemnification.

Generally.

See INDEMNIFICATION.

Rural telecommunications

cooperatives, §23-17-238.

HIGH COST HOME LOANS.**Home loan protection act,**

§§23-53-101 to 23-53-106.

See MORTGAGES AND DEEDS OF
TRUST.

HIGHWAYS.**Accounts and accounting.**

State highway and transportation
department, §23-2-212.

Systems of accounts.

Authority to establish, §23-2-306.

Actions.

State highway and transportation
department.

Compelling compliance with
provisions of act and orders,
§23-1-104.

Air commerce.

State highway and transportation
department.

See AVIATION.

Appeals.

State highway and transportation
department.

Motor carriers.

Complaints against carriers.

Order of department,
§23-13-308.

Orders.

Appeals to circuit court, §23-2-425.

Appeals from circuit court to
supreme court, §23-2-425.

HIGHWAYS —Cont'd**Appeals —Cont'd**

State highway and transportation department —Cont'd

Orders —Cont'd

Motor carriers.

Complaints against carriers,
§23-13-308.

Burden of proof.

State highway and transportation department.

Persons seeking to avoid compliance with act or orders, §23-2-417.

Complaints.

Repeal of provisions, effect, §23-2-430.

State highway and transportation department.

Rates and charges.

Common carriers.

Determination, §23-13-239.

Separation or consolidation,
§23-2-416.

Service of copy of complaint,
§23-3-119.

Who may complain, §23-3-119.

Contempt.

State highway and transportation department.

Witnesses.

Refusal to attend or testify,
§23-2-410.

Contracts.

State highway and transportation department.

Orders.

Contracts in violation of orders.
Void, §23-1-112.

Costs.

State highway and transportation department.

Contests.

Unsuccessful party to be taxed with costs, §23-2-428.

Deposit of costs.

Department not required to deposit, §23-2-428.

Definitions.

State highway and transportation department, §23-2-201.

Depositions.

State highway and transportation department, §23-2-412.

Evidence.

State highway and transportation department.

Copies of official papers, §23-1-111.

Rules of evidence, §23-2-403.

HIGHWAYS —Cont'd**Fees.**

State highway and transportation department.

Schedule of fees, §23-2-314.

Hearings.

State highway and transportation department, §23-2-415.

Notice, §23-2-415.

Inventory.

State highway and transportation department.

Requiring inventories of property,
§23-2-307.

Investigations.

State highway and transportation department, §23-2-429.

Powers, §§23-2-310, 23-2-402.

Rates, charges or service of utilities.

Change in rates, §23-4-622.

Preliminary investigation,
§23-3-118.

Jurisdiction.

State highway and transportation department.

Actions by or against department,
§23-1-108.

Interstate transportation services,
§23-2-303.

State highway commission, §23-2-209.

Railroad crossings.

Construction and location,
§23-12-304.

Jury.

State highway and transportation department.

Actions by or against department.

Trial without jury, §23-1-110.

Misdemeanors.

State highway and transportation department.

Subpoenas.

Refusal to comply, §23-2-409.

Motor carriers.

General provisions.

See MOTOR CARRIERS.

State highway and transportation department.

See MOTOR CARRIERS.

Notice.

State highway and transportation department.

Hearings, §23-2-415.

Service, §23-2-405.

Oaths.

State highway and transportation department.

Administration of oaths, §23-2-406.

HIGHWAYS —Cont'd**Orders.**

- State highway and transportation department.
- Actions between private persons and railroad companies.
 - Orders not controverted, §23-2-427.
- Amendment, §23-2-426.
- Appeals, §23-2-425.
- Burden of proof.
 - Persons seeking to avoid compliance, §23-2-417.
- Compliance with orders.
 - Burden of proof on persons seeking to avoid compliance, §23-2-417.
 - Power to compel, §23-1-104.
 - Required, §23-1-103.
- Contracts in violation of orders.
 - Void, §23-1-112.
- Evidence.
 - Copies as evidence, §23-2-420.
- Penalties.
 - Violations, §23-1-103.
- Rescinding, §23-2-426.
- Violations.
 - Penalties, §23-1-103.
- Written orders required, §23-2-420.

Penalties.

- State highway and transportation department.
- Orders.
 - Violations, §23-1-103.

Perjury.

- State highway and transportation department.
- Witnesses, §23-2-413.

Permits.

- State highway and transportation department.
- Assignability.
 - Indeterminate permits granted under 1919 act, §23-1-113.

Pipelines.

- State highway commission.
- Authority concerning regulation of pipeline companies.
 - Transferred, vested and conferred upon public service commission, §23-2-209.

Pleadings.

- State highway and transportation department, §23-2-403.

Public utilities.

- Wires over public or private ways.
 - Duties of utility, §23-3-115.

HIGHWAYS —Cont'd**Railroads.**

- Crossings generally.
- See RAILROADS.

Records.

- State highway and transportation department, §23-2-212.
- Open to public, §23-2-316.
- Protective order, §23-2-316.
- Proceedings, §23-2-418.

Reports.

- State highway and transportation department.
- Annual report to governor, §23-2-315.
- Railroad companies.
 - Report as to information regarding, §23-11-104.

Right of entry.

- State highway and transportation department, §§23-2-310, 23-2-311.

Rules and regulations.

- State highway and transportation department, §23-2-210.
- Compliance required, §23-1-103.
- Penalties.
 - Violations, §23-1-103.
- Procedures, §23-2-211.
- Violations.
 - Penalties, §23-1-103.

Self-incrimination.

- State highway and transportation department.
- Witnesses.

- No bar to testimony, §23-2-411.

Service of process.

- State highway and transportation department, §23-2-405.
- Complaints.

- Service of copy of complaint, §23-3-119.

State highway and transportation department.

- Accounts and accounting, §23-2-212.
- Systems of accounts.
 - Authority to establish, §23-2-306.

Actions.

- Compelling compliance with provisions of act and orders, §23-1-104.

Air commerce.

- See AVIATION.

Appeals.**Orders.**

- Appeals to circuit court, §23-2-425.
- Appeals from circuit court to supreme court, §23-2-425.

HIGHWAYS —Cont'd**State highway and transportation department —Cont'd**

Appeals —Cont'd

Orders —Cont'd

Motor carriers.

Complaints against carriers,
§23-13-308.

Burden of proof.

Persons seeking to avoid compliance
with act or orders, §23-2-417.

Complaints.

Rates and charges.

Common carriers.

Determination, §23-13-239.

Separation or consolidation,
§23-2-416.

Service of copy of complaint,
§23-3-119.

Who may complain, §23-3-119.

Contempt.

Witnesses.

Refusal to attend or testify,
§23-2-410.

Contracts.

Orders.

Contracts in violation of orders.
Void, §23-1-112.

Costs.

Contests.

Unsuccessful party to be taxed
with costs, §23-2-428.

Deposit of costs.

Department not required to
deposit, §23-2-428.

Definitions, §23-2-201.

Depositions, §23-2-412.

Evidence.

Copies of official papers, §23-1-111.

Self-incrimination.

No bar to testimony, §23-2-411.

Expenses.

Payment, §23-2-212.

Fees.

Schedule of fees, §23-2-314.

Free transportation for members and
employees, §23-2-208.

Hearings, §23-2-415.

Notice, §23-2-415.

Inventories.

Requiring inventories of property,
§23-2-307.

Investigations, §23-2-429.

Powers, §§23-2-310, 23-2-402.

Rates, charges or service of utilities.

Change in rates, §23-4-622.

Preliminary investigation,
§23-3-118.

HIGHWAYS —Cont'd**State highway and transportation department —Cont'd**

Jurisdiction.

Actions by or against department,
§23-1-108.

Interstate transportation services,
§23-2-303.

Jury.

Actions by or against department.

Trial without jury, §23-1-110.

Misdemeanors.

Subpoenas.

Refusal to comply, §23-2-409.

Motor carriers.

See MOTOR CARRIERS.

Notice.

Hearings, §23-2-415.

Service, §23-2-405.

Oaths.

Administration of oaths, §23-2-406.

Orders.

Actions between private persons and
railroad companies.

Orders not controverted,
§23-2-427.

Amendment, §23-2-426.

Appeals, §23-2-425.

Burden of proof.

Compliance with orders.

Persons seeking to avoid,
§23-2-427.

Compliance with orders.

Burden of proof on persons
seeking to avoid compliance,
§23-2-427.

Powers to compel, §23-1-104.

Required, §23-1-103.

Contracts in violation of orders.

Void, §23-1-112.

Evidence.

Copies as evidence, §23-2-420.

Penalties.

Violations, §23-1-103.

Rescinding, §23-2-426.

Violations.

Contracts in violation void,
§23-1-112.

Penalties, §23-1-103.

Written orders required, §23-2-420.

Penalties.

Orders.

Violations, §23-1-103.

Perjury.

Witnesses, §23-2-413.

Permits.

Assignability.

Indeterminate permits granted
under 1919 act, §23-1-113.

HIGHWAYS —Cont'd**State highway and transportation department —Cont'd**

Personnel.

Free transportation, §23-2-208.

Powers as to, §23-2-207.

Pipeline.

Authority conferred and vested in concerning regulation of pipeline companies.

Transferred, vested and conferred upon public service commission, §23-2-209.

Pleading, §23-2-403.

Powers, §23-2-301.

Enumerated, §23-2-304.

Organization or reorganization of utilities, §23-3-101.

Personnel, §23-2-207.

Subpoenas, §§23-2-313, 23-2-407.

Production of books and records.

Subpoenas, §23-2-408.

Quorum, §23-2-419.

Railroads.

Charters of railroad corporations.

Extension, §23-11-223.

Definition of department, §23-11-202.

Discrimination.

See RAILROADS.

Enforcement of laws relating to railroads or express companies on complaint, §23-11-101.

Freight.

See RAILROADS.

Frequency of trains and street cars.

Powers of department, §23-12-104.

Hearings.

Application for incorporation, §23-11-205.

Inspection of railroads, §23-12-102.

Rates and charges.

See RAILROADS.

Report as to information regarding railroad companies, §23-11-104.

Records, §23-2-212.

Open to public, §23-2-316.

Protective orders, §23-2-316.

Proceedings, §23-2-418.

Reports.

Annual report to governor, §23-2-315.

Railroad companies.

Report as to information regarding, §23-11-104.

Right of entry, §§23-2-310, 23-2-311.

Rules and regulations, §23-2-210.

Compliance required, §23-1-103.

Procedures, §23-2-211.

HIGHWAYS —Cont'd**State highway and transportation department —Cont'd**

Rules and regulations —Cont'd

Violations.

Penalties, §23-1-103.

Rules of evidence, §23-2-403.

Self-incrimination.

No bar to testimony, §23-2-411.

Service of process, §23-2-405.

Complaints.

Service of copy of complaint, §23-3-119.

Subpoenas.

Powers of department, §§23-2-313, 23-2-407.

Production of books and records, §23-2-408.

Refusal to comply, §23-2-409.

Witnesses.

Compelling attendance and testimony, §23-2-313.

Contempt.

Refusal to attend or testify, §23-2-410.

Depositions, §23-2-412.

Disposition, §23-2-412.

Exemption from prosecution based on testimony, §23-2-411.

False testimony.

Penalties, §23-1-105.

Fees, §23-2-414.

Mileage, §23-2-414.

Penalties.

False testimony, §23-1-105.

Perjury, §23-2-413.

Refusal to attend or testify.

Contempt proceedings, §23-2-410.

Self-incrimination.

No bar to testimony, §23-2-411.

Subpoena power, §§23-2-313, 23-2-407.

State highway commission.

Jurisdiction.

Railroad crossings.

Construction and location, §23-12-304.

Pipelines.

Authority concerning regulation of pipeline companies.

Transferred, vested and conferred upon public service commission, §23-2-209.

Railroads.

Crossings.

Generally.

See RAILROADS.

HIGHWAYS —Cont'd**State highway commission —Cont'd**

Railroads —Cont'd

Crossings —Cont'd

Inspection of proposed road or street crossings, §23-12-304.

Jurisdiction over location and construction, §23-12-304.

Subpoenas.

State highway and transportation department.

Powers, §§23-2-313, 23-2-407.

Production of books and records, §23-2-408.

Refusal to comply, §23-2-409.

Witnesses.

State highway and transportation department.

Compelling attendance and testimony, §23-2-313.

Contempt proceedings.

Refusal to attend or testify, §23-2-410.

Depositions, §23-2-412.

Exemption from prosecution based on testimony, §23-2-411.

False testimony.

Penalties, §23-1-105.

Fees, §23-2-414.

Mileage, §23-2-414.

Penalties.

False testimony, §23-1-105.

Perjury, §23-2-413.

Refusal to attend or testify.

Contempt proceedings, §23-2-410.

Self-incrimination.

No bar to testimony, §23-2-411.

Subpoena power, §§23-2-313, 23-2-407.

Writing and written instruments.

State highway and transportation department.

Orders.

Written orders required, §23-2-420.

**HOLDING COMPANIES,
INSURANCE.****Appeals.**

Determinations of commissioner, §23-63-519.

Applicability of provisions, §23-63-504.

Citation of subchapter, §23-63-501.

Confidentiality of information, §23-63-517.

Mutual insurance holding companies, §23-69-320.

**HOLDING COMPANIES,
INSURANCE —Cont'd****Control of or merger with domestic insurer.**

Exceptions to provisions, §23-63-507.

Filing requirements, §23-63-506.

Alternative filing materials, §23-63-509.

Mailings, §23-63-511.

Hearings, §23-63-510.

Mailing, §23-63-511.

Notice, §23-63-510.

Jurisdiction of courts, §23-63-512.

Mailings, §23-63-511.

Notice.

Hearings, §23-63-510.

Mailing of notice, §23-63-511.

Prohibited acts, §23-63-513.

Requirements.

Exceptions to requirements, §23-63-507.

Filing requirements, §23-63-506.

Alternative filing materials, §23-63-509.

Service of process, §23-63-512.

Statements, §23-63-508.

Contents, §23-63-508.

Failure to file.

Prohibited, §23-63-513.

Filing.

Required, §23-63-506.

Violations of provisions.

Prohibited acts, §23-63-513.

Criminal proceedings.

Violations, §23-63-522.

Definitions, §23-63-503.**Disclosure requirements,** §23-63-514.**Examinations.**

Power of commissioner, §23-63-516.

Purposes and limitations upon, §23-63-516.

Injunctions.

Violations of provisions, §23-63-521.

Judicial review.

Determinations of commissioner, §23-63-519.

Legislative declaration, §23-63-502.**Licenses.**

Revocation, suspension or nonrenewal, §23-63-524.

Mandamus.

Determinations of commissioner, §23-63-519.

Mergers.

Control of or merger with domestic insurer, §§23-63-506 to 23-63-513.

Approval by commissioners, §23-63-510.

**HOLDING COMPANIES,
INSURANCE —Cont'd****Mergers —Cont'd**

Control of or merger with domestic insurer —Cont'd

Exceptions, §23-63-507.

Filing requirements, §23-63-506.

Alternative filing materials,
§23-63-509.

Content of statement, §23-63-508.

Jurisdiction, §23-63-512.

Mailings, §23-63-511.

Service of process, §23-63-512.

Violations, §23-63-513.

Mutual insurance holding companies,
§23-69-313.

**Mutual insurance holding
companies, §§23-69-301 to
23-69-323.**

Acquisitions, §23-69-313.

Annual statements, §23-69-315.

Citation of act, §23-69-301.

Compensation of officers, directors,
employees and agents, §23-69-318.

Confidentiality of information,
§23-69-320.

Definitions, §23-69-303.

Demutualization.

Provisions not to prohibit,
§23-69-317.

Experts.

Hiring by commissioner for certain
purposes, §23-69-319.

Injunctive orders, §23-69-321.

Membership in, §23-69-314.

Mergers, §23-69-313.

Production of documents.

Power of commissioner to order,
§23-69-316.

Purpose of act, §23-69-302.

Reorganization of domestic mutual
insurer, §23-69-304.

Abandonment of reorganization
plan, §23-69-312.

Appeal of final order, §23-69-310.

Approval of proposed reorganization
plan, §§23-69-307, 23-69-308.

Certificate of authority, §23-69-309.

Continuation of corporate existence,
§23-69-311.

Hearing on proposed reorganization
plan, §23-69-306.

Plan of reorganization, §§23-69-305
to 23-69-308.

Rules and regulations, §23-69-322.

Supplemental nature of provisions,
§23-69-323.

Title of act, §23-69-301.

**HOLDING COMPANIES,
INSURANCE —Cont'd**

Policy of state, §23-63-502.

Receivership, §23-63-523.

Records.

Confidential treatment, §23-63-517.

Registration of insurers, §23-63-514.

Revocation, suspension or nonrenewal
of insurer's license, §23-63-524.

Rules and regulations.

Mutual insurance holding companies,
§23-69-322.

Promulgation by commissioner,
§23-63-518.

Scope of provisions, §23-63-504.

Securities.

Voting of securities, §23-63-520.

Short title, §23-63-501.

Standards.

Transactions, §23-63-515.

Subsidiaries, §23-63-505.

Transactions.

Standards, §23-63-515.

HOLIDAYS AND MEMORIAL DAYS.

Banks, §23-48-103.

HOME LOAN PROTECTION ACT.

**High cost home loans, §§23-53-101 to
23-53-106.**

See MORTGAGES AND DEEDS OF
TRUST.

HORSE RACING.

Admission tax, §23-110-411.

Appeals.

Findings and orders of racing
commission, §23-110-205.

Franchises to conduct horse races.

Refusal to grant, §23-110-302.

Applicability of provisions.

Nonapplicability to other methods or
forms of racing, §23-110-103.

Bonds, surety.

Franchise holders, §23-110-414.

Racing commission.

Secretary, §23-110-202.

Breaks, computing, §23-110-410.

Citation of law.

Short title, §23-110-101.

Conflict of laws.

Statutes prohibiting betting on racing
inapplicable, §23-110-102.

Conflicts of interest.

Racing commission.

Persons prohibited from
membership, §23-110-201.

Elections.

Racing meets.

Sunday racing, §23-110-402.

HORSE RACING —Cont'd**Employees of franchise holders.**

- Applications for employment,
§23-110-308.
- Racing commission authorized to
examine, §23-110-308.

Misdemeanors.

- Applications for employment.
- False information, §23-110-308.
- Percentage of employees required to
be registered voters in
Arkansas.
- Failure to comply with order for
adjustment, §23-110-308.

Penalties.

- Applications for employment.
- False information, §23-110-308.
- Percentage of employees required to
be registered voters in
Arkansas.
- Failure to comply with order for
adjustment, §23-110-308.

Registered voters in Arkansas.

- Percentage of employees required to
be, §23-110-308.
- Time for adjustment, §23-110-308.

Fees.

- Franchises to conduct horse races,
§23-110-305.

Licenses.

- Disposition of fees, §23-110-104.
- Horse owners, §23-110-404.
- Horse trainers, §23-110-404.
- Jockeys and jockey agents,
§23-110-404.
- Racing meets, §23-110-403.

Franchises to conduct horse races.

- Applications for franchises,
§23-110-302.
- Bond of franchise holder, §23-110-414.
- Construction of racing plant,
§23-110-305.

Elections.

- Approval of electors, §23-110-303.
- Ballots, §23-110-304.
- Conduct of elections, §23-110-304.
- Contests, §23-110-304.
- Continuing horse racing in county.
- Special election, §23-110-306.
- Notice, §23-110-304.
- Proclamation of result, §23-110-304.
- Subsequent elections, §23-110-306.

Fees, §23-110-305.

- Franchises granted prior to July 1,
1957, §23-110-307.
- Granting of franchises, §23-110-301.
- Approval of electors required,
§23-110-303.

HORSE RACING —Cont'd**Franchises to conduct horse races****—Cont'd**

- Granting of franchises —Cont'd
- Granted prior to July 1, 1957,
§23-110-307.

- Limitations on issuance,
§23-110-301.

- Hearing on application for franchise,
§23-110-302.

Number of franchises.

- Limitations, §23-110-301.

- Refusal to grant, §23-110-302.

- Appeal, §23-110-302.

Temporary franchise, §23-110-302.

- Franchise issued in exchange for
temporary franchise,
§23-110-305.

Wagering.

- Disposition of money wagered.
- Portion for franchise holder,
§23-110-407.

Funds.**Wagering.**

- Arkansas racing commission purse
and awards funds, §23-110-409.

Hearings.

- Franchises to conduct horse races.
- Hearing on application, §23-110-302.
- Racing commission, §23-110-205.

Horse owners.**Licenses.**

- Fee, §23-110-404.

Horse trainers.**Licenses.**

- Fee, §23-110-404.

Investigations.

- Racing commission, §23-110-413.

Jockeys and jockey agents.**Licenses.**

- Fee, §23-110-404.

Legalized, §23-110-301.**Licenses.****Fees.**

- Disposition of fees, §23-110-104.
- Horse owners, §23-110-404.
- Horse trainers, §23-110-404.
- Jockeys and jockey agents,
§23-110-404.
- Racing meets, §23-110-403.

Horse owners.

- Fee, §23-110-404.

Horse trainers.

- Fee, §23-110-404.

Jockeys and jockey agents.

- Fee, §23-110-404.

Racing meets, §23-110-403.

- Applications, §23-110-403.
- Fee, §23-110-403.

HORSE RACING —Cont'd**Licenses —Cont'd**

Racing meets —Cont'd

Holding without license.

Penalties, §23-110-401.

Number of meets.

Limitation on, §23-110-402.

Required, §23-110-403.

Minors.

Wagering.

Prohibited for persons under 18,
§23-110-405.**Misdemeanors.**

Employees of franchise holders.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.Failure to comply with order for
adjustment, §23-110-308.Failure of franchise holders to pay
taxes, §23-110-415.

Racing meetings.

Holding racing meet without license,
§23-110-401.

Subpoenas of racing commission.

Noncompliance, §23-110-205.

Wagering.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.**Notice.**

Franchises to conduct horse races.

Elections, §23-110-304.

Racing meets.

Sunday racing.

Notice of election, §23-110-402.

Oaths.

Racing commission.

Oath of office of members,
§23-110-201.**Passes.**

Distribution, §23-110-105.

Maximum number, §23-110-105.

Penalties.

Disposition of fines, §23-110-104.

Employees of franchise holders.

Applications for employment.

False information, §23-110-308.

Percentage of employees required to
be registered voters in
Arkansas.Failure to comply with order for
adjustment, §23-110-308.Failure of franchise holders to pay
taxes, §23-110-415.**HORSE RACING —Cont'd****Penalties —Cont'd**

Racing meets.

Holding racing meet without license,
§23-110-401.

Subpoenas of racing commission.

Noncompliance, §23-110-205.

Racing commission.

Appointment of members, §23-110-201.

Conflicts of interest.

Persons prohibited from
membership, §23-110-201.

Creation, §23-110-201.

Duties.

Generally, §23-110-204.

Expenses of members, §23-110-201.

Hearings, §23-110-205.

Investigations, §23-110-413.

Meetings, §23-110-203.

Number of members, §23-110-201.

Oath of office of members,
§23-110-201.

Officers, §23-110-202.

Per diem of members, §23-110-201.

Powers and duties.

Generally, §§23-110-204, 23-110-205.

Qualifications of members,
§23-110-201.Persons prohibited from
membership, §23-110-201.

Quorum, §23-110-203.

Removal of members, §23-110-201.

Right of entry, §23-110-413.

Secretary.

Bonds, surety, §23-110-202.

Director of department of finance
and administration,
§23-110-202.

Duties, §23-110-202.

Employment of personnel,
§23-110-202.

Terms of members, §23-110-201.

Racing meets.

Admission tax, §23-110-411.

Elections.

Sunday racing, §23-110-402.

Licenses, §23-110-403.

Applications, §23-110-403.

Fee, §23-110-403.

Holding without license.

Penalties, §23-110-401.

Number of meets.

Limitation on, §23-110-402.

Required, §23-110-403.

Misdemeanors.Holding racing meet without license,
§23-110-401.

HORSE RACING —Cont'd**Racing meets —Cont'd**

Notice.

Sunday racing.

Notice of election, §23-110-402.

Number of days in one meet,
§23-110-402.

Number of meets during year,
§23-110-402.

Penalties.

Holding racing meet without license,
§23-110-401.

Racing programs.

Submission for approval,
§23-110-402.

Sunday racing, §23-110-402.

Wagering programs.

Submission for approval,
§23-110-402.

Writing various races for each racing
meet.

Franchise holder responsible for,
§23-110-409.

Racing passes.

Distribution, §23-110-105.

Maximum number, §23-110-105.

Records.

Franchise holders, §23-110-412.

Racing commission to have access to
records, §23-110-413.

Subpoenas.

Racing commission.

Powers, §23-110-205.

Sunday.

Racing meets.

Sunday racing, §23-110-402.

Taxation.

Admission tax, §23-110-411.

Disposition of taxes, §23-110-104.

Title of law.

Short title, §23-110-101.

Wagering.

Breaks, computing, §23-110-410.

Disposition of money wagered.

Arkansas racing commission purse
and awards fund, §23-110-409.

Breaks, §23-110-410.

Funds.

Arkansas racing commission purse
and awards fund,
§23-110-409.

Generally, §23-110-406.

Payment to winning bettors
required, §23-110-406.

Portion for franchise holder,
§23-110-407.

Minors.

Wagering by persons under 18
prohibited, §23-110-405.

HORSE RACING —Cont'd**Wagering —Cont'd**

Misdemeanors.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.

Pari-mutuel or certificate method.

Authorized at licensed track,
§23-110-405.

Penalties.

Forms of wagering other than
pari-mutuel or certificate
method, §23-110-405.

Races run at other race tracks shown
live by television or otherwise.

Franchise holder may enter into
agreements whereby patrons
may wager on, §23-110-405.

Racing meets.

Wagering programs.

Submission for approval,
§23-110-402.

Statutes prohibiting betting on racing.
Inapplicable, §23-110-102.

Witnesses.

Racing commission.

Powers as to, §23-110-205.

HORTICULTURE.**Agriculture generally.**

See AGRICULTURE.

**HOSPICE CARE INSURANCE
COVERAGE.****Group and blanket health
insurance.**

Coverage, §23-86-120.

**Offered to master disability
insurance group contract
holder, §23-68-120.****HOSPITAL AND MEDICAL SERVICE
CORPORATIONS.****Annual report and examination,
§23-75-114.****Appeals.**

Review of decisions, §23-75-118.

**Applicability of provisions,
§23-75-103.**

Limited application, §23-75-104.

Miscellaneous provisions, §23-75-102.

Cancer.

Mammogram screening of occult
breast cancer.

Coverage generally, §23-79-140.

Certificates of authority.

Application, §23-75-107.

Contents, §23-75-107.

Fees, §23-75-107.

HOSPITAL AND MEDICAL SERVICE CORPORATIONS —Cont'd**Certificates of authority —Cont'd**

Requirements, §23-75-108.

Charities.

Donations.

Power to make donations for the public welfare, §23-75-121.

Children's preventive health care act.

Generally, §23-79-141.

Consumer choice in health

insurance, §§23-79-801 to 23-79-805.

Contracts.

Subscription contracts, §23-75-111.

Conversion to legal reserve mutual life insurer, §23-75-122.

Approval of conversion plan, §23-75-122.

Time for completion of conversion, §23-75-122.

Craniomandibular disorder.

Optional coverage to be offered, §23-79-150.

Dental point of service option, §§23-99-601 to 23-99-608.**Deposits.**

Protection of subscribers, §23-75-109.

Required, §23-75-109.

Diabetes coverage, §§23-79-601 to 23-79-607.**Directors.**

Qualifications, §23-75-112.

Donations.

Power to make donations for the public welfare, §23-75-121.

Entitlement notwithstanding policy provisions.

Health services performed by professionals not licensed under Arkansas medical practices act, §23-79-114.

Services performed by outpatient centers, §23-79-115.

Examinations.

Annual report and examination, §23-75-114.

Exclusive nature of provisions, §23-75-103.**Expenses, §23-75-113.****Fees.**

Certificates of authority, §23-75-107.

Health insurance.

Consumer choice in health insurance, §§23-79-801 to 23-79-805.

Generally.

See HEALTH INSURANCE.

HOSPITAL AND MEDICAL SERVICE CORPORATIONS —Cont'd**Incorporation.**

Requirements, §23-75-106.

Insurance.

Conversion to legal reserve mutual life insurer, §23-75-122.

Approval of conversion plan, §23-75-122.

Time for completion of conversion, §23-75-122.

Investments, §23-75-113.**Judicial review of decisions, §23-75-118.****Liability.**

Nonliability of corporation, §23-75-116.

Limited application of chapter, §23-75-104.**Mammograms.**

Coverage for mammogram screening of occult breast cancer.

Generally, §23-79-140.

Mental health.

Psychological examiner coverage, §23-79-142.

Minors.

Children's preventive health care act.

Generally, §23-79-141.

Nonliability of corporation, §23-75-116.**Outpatient centers.**

Services performed by.

Entitlement notwithstanding policy provisions, §23-79-115.

Participating hospitals and physicians, §23-75-110.**Physicians and surgeons.**

Participating hospitals and physicians, §23-75-110.

Professionals not licensed under Arkansas medical practices act.

Health services performed by.

Entitlement notwithstanding policy provisions, §23-79-114.

Relationship of physician and patient, §23-75-105.

Policies.

Subscription contracts, §23-75-111.

Prescription drug benefits, §23-79-149.**Provisions exclusive, §23-75-103.****Quarterly reports, §23-75-114.****Relationship of physician and patient, §23-75-105.****Reports.**

Annual reports, §23-75-114.

Quarterly reports, §23-75-114.

Review of decisions, §23-75-118.

HOSPITAL AND MEDICAL SERVICE CORPORATIONS —Cont'd

Risk-based capital requirements for health organizations,
§§23-63-1501 to 23-63-1512.

See **INSURANCE**.

Service corporations.

Defined, §23-75-101.

Subrogation recovery, §23-79-146.

Subscription contracts, §23-75-111.

Substance abuse coverage,
§23-79-139.

Surpluses.

Use, §23-75-115.

Taxation.

Exemptions, §23-75-120.

Premium tax, §23-75-119.

Temporomandibular joint disorder.

Optional coverage to be offered,
§23-79-150.

HOSPITALS.

Hospital and medical service corporations.

See **HOSPITAL AND MEDICAL SERVICE CORPORATIONS**.

Railroads.

Employees of railroads.

Facilities to be furnished,
§23-12-508.

Taxation.

Exemption from taxation.

Hospital and medical service corporations, §23-75-120.

HUSBAND AND WIFE.

Insurance.

Group and blanket health insurance.
Continuation of coverage upon
change in marital status,
§23-86-114.

Policies.

Married woman's right to insure
husband's life, §23-79-128.

I

IDENTIFICATION CARDS.

Railroad police, §23-12-705.

IMMUNITY.

Arkansas earthquake authority,
§23-102-106.

Bank department.

Staff, §23-46-206.

Comprehensive health insurance pool.

Board not liable for obligations of pool,
§23-79-504.

IMMUNITY —Cont'd

Comprehensive health insurance pool —Cont'd

Collective actions, §23-79-512.

Fraternal benefit societies.

Benefits.

Attachment, garnishment or other
process.

Benefits not liable for, §23-74-403.

Supreme governing body.

Officers and members.

Not personally liable for benefits
provided, §23-74-203.

Hospital and medical service corporations.

Nonliability of corporation, §23-75-116.

Industrial loan institutions.

Limitation on liability, §23-36-109.

Insurance.

Commissioner.

Examination of insurers, §23-61-208.

Direct actions, §23-79-210.

Fraudulent insurance acts prevention,
§23-66-506.

General provisions.

See **INSURANCE**.

Life and health insurance guaranty
association, §23-96-108.

Risk retention and purchasing groups,
§§23-94-201 to 23-94-215.

See **RISK RETENTION AND
PURCHASING GROUPS**.

Risk-sharing plans for property and
casualty insurance.

Commissioner, representatives or
any plan, its participants or
employees, §23-95-107.

Unfair competition and trade
practices.

Persons attending or testifying at
hearings, §23-66-214.

Risk-based capital act.

Employees or agents of insurance
department, §23-63-1312.

Risk-based capital requirements for health organizations.

Insurance commissioner and
employees of insurance
department, §23-63-1511.

Risk retention and purchasing groups, §§23-94-201 to 23-94-215.

See **RISK RETENTION AND
PURCHASING GROUPS**.

Rural telephone cooperatives.

Connecting companies or cooperatives,
§23-17-235.

Debts of cooperatives.

Nonliability of members and
shareholders, §23-17-233.

IMMUNITY —Cont'd**Securities regulation.**

Civil liability, §23-42-106.

Take-over offers, §23-43-106.

Viatical settlements.

Examiners, §23-81-607.

Fraud prevention and control,
§23-81-612.**IMPROVEMENT DISTRICTS.****Fire protection districts.**

See FIRE PROTECTION DISTRICTS.

Insurance.

Investments.

Obligations of improvement
districts, §23-63-810.**INCOME TAX.****Credits.**Medically necessary foods or protein
modified food products.Individuals or families with children
with phenylketonuria,
§23-79-702.

Definitions, §23-79-701.

INCOME WITHHOLDING.**Garnishment of wages.**

Garnishment generally.

See GARNISHMENT.

Insurance.

Minimum basic benefit policies.

Payroll deduction, §23-98-108.

INCOMPETENT PERSONS.**Mental health.**

General provisions.

See MENTAL HEALTH.

INDEMNIFICATION.**Electric cooperative corporations,**

§23-18-307.

Farmers' mutual aid associations,

§23-73-123.

Fraternal benefit societies.Persons indemnified and reimbursed
by societies, §23-74-203.**Insurance.**Reciprocal insurers, §§23-70-101 to
23-70-124.

See INSURANCE.

Use of credit information for personal
insurance.Holding agents harmless against
liability, §23-67-410.**Rural telecommunications****cooperatives.**Directors, officers, employees or
agents, §23-17-238.**INDIGENT PERSONS.****Greyhound racing.**

Racing meets.

Additional racing days.

Use of revenue derived from,
§23-111-505.**Railroads.**

Free carriage.

Authorized, §23-4-807.

INDUSTRIAL LIFE INSURANCE,

§§23-82-101 to 23-82-118.

INDUSTRIAL LOAN INSTITUTIONS.**Bank commission.**

Taking charge of institution.

Grounds for commissioner to take
charge of institution,
§23-36-116.**Bankruptcy and insolvency.**Bank commissioner taking charge of
institution, §23-36-116.**Board of directors.**

Dividends.

Declaring dividends, §23-36-115.

Loans to officers, directors or
employees prohibited, §23-36-111.

Ownership of stock, §23-36-103.

Qualification of directors, §23-36-103.

Choses in action.

Reserves required, §23-36-113.

**Claims against estate of liquidated
institution, §23-36-116.****Commissioner.**Taking charge of property and affairs
of institution, §23-36-116.

Creditors.

Classification, §23-36-117.

Corporate title, §23-36-104.**Defaults.**Grounds for bank commission to take
charge of institution, §23-36-116.

Payment of installments, §23-36-112.

Late charges, §23-36-112.

Definitions, §23-36-101.**Dividends.**

Declaring dividends, §23-36-115.

Enforcement of act.

Rules and regulations, §23-36-105.

Examinations.

Fees for examinations, §23-36-107.

State bank commissioner to examine,
§23-36-105.**Funds.**

Deposit of funds, §23-36-114.

Impairment of capital.Grounds for bank commission taking
charge, §23-36-116.

INDUSTRIAL LOAN INSTITUTIONS

—Cont'd

Insurance.Loans insured by federal government,
§23-36-110.**Investment certificates.**

Reserves required, §23-36-113.

Liability.

Limitation on liability, §23-36-109.

Liquidation and distribution of assets.Commissioner taking charge of
institution, §23-36-116.**Notice.**Claims against estate of liquidated
institution, §23-36-116.Commissioners taking charge of
institution, §23-36-116.**Possession of business and property.**Commissioner taking charge of,
§23-36-116.**Powers.**

Generally, §23-36-108.

Prohibited loans.Officer, director or employee loans
prohibited, §23-36-111.

On own stock, §23-36-111.

Reserves.Establishment of reserve against
choses in actions, investment
certificates, etc., §23-36-113.**Resumption of business.**After commissioner takes charge of
institution, §23-36-116.**Rules and regulations.**

Enforcement of act, §23-36-105.

State bank commissioner.Examination by state bank
commissioner, §23-36-105.

Fees for examination, §23-36-107.

Statement of assets and liabilities.

Call of commissioner, §23-36-106.

Statement of assets and liabilities.

State bank commissioner.

Call of commissioner, §23-36-106.

Stock and stockholders.

Ownership of stock.

Board of directors, §23-36-103.

Residents of state, §23-36-102.

Taking charge of institution.

Bank commission.

Grounds for commissioner to take
charge of institution,
§23-36-116.**Title of corporations, §23-36-104.****United States.**Loans insured by federal government,
§23-36-110.**INDUSTRY.****Industrial loan institutions.**See INDUSTRIAL LOAN
INSTITUTIONS.**INJUNCTIONS.****Banks.**

Dissolution and liquidation.

Injunction against commissioner,
§23-49-103.**Continuing care providers.**

Enforcement of chapter, §23-93-104.

Fraternal benefit societies.

Domestic societies.

Grounds, §23-74-606.

Procedures, §23-74-606.

Recognition of proceedings.

Application or petition required to
be made by attorney general,
§23-74-608.**Insurance.**

Delinquency proceedings, §23-68-105.

Health insurance.

Primary eye care providers.

Remedies for violations,
§23-99-305.

Holding companies.

Mutual insurance holding
companies, §23-69-321.

Violations of provisions, §23-63-521.

Risk retention and purchasing groups.

Authority of commissioner,
§23-94-212.

United States district court.

Binding effect of orders issued in,
§23-94-214.**Loan brokers.**

Advance fee loan brokers.

Violations of subchapter, §23-39-405.

Motor carriers.

Transportation commission.

Jurisdiction.

Mandatory injunction that
commission take jurisdiction,
§23-13-209.

Violation of subchapter, §23-13-261.

Motor vehicles.

Licenses.

Dealers, distributors, manufacturers
and salespersons.Violations of provisions,
§23-112-104.**Pipelines.**

Safety act.

Violations of provisions, §23-15-212.

Professional employer organizations.

Penalties for violations, §23-92-412.

INJUNCTIONS —Cont'd**Railroads.**

Crossings.

Improper crossing of highway and railroad, §23-12-306.

Risk retention and purchasing groups.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in, §23-94-214.

Savings and loan associations.

Enforcement of chapter by injunction, §23-37-212.

Securities regulation.

Commissioner.

Enforcement of act by injunction, §23-42-209.

Take-over offers.

Action to enjoin violation of act, §23-43-109.

Trust companies.

Dissolution and liquidation.

Injunction against commissioner, §23-49-103.

Viatical settlements.

Civil remedies, §23-81-613.

INJURIES.**Railroads.**

See RAILROADS.

Workers' compensation.

General provisions.

See WORKERS' COMPENSATION.

INSANITY.**Mental health.**

General provisions.

See MENTAL HEALTH.

INSOLVENCY.**Insurance.**

Mutual assessment life and disability insurers, §23-72-121.

Stipulated premium insurers, §23-71-113.

INSPECTIONS.**Amusements.**

Amusement ride and amusement attraction safety insurance.

Safety inspections, §§23-89-504, 23-89-507.

Check-cashers.

Books and records, §23-52-112.

Motor carriers.

Transportation commission, §23-13-102.

Pipelines.

Safety act.

See PIPELINES.

INSPECTIONS —Cont'd**Public utilities.**

Books, papers, reports and statements, §23-2-309.

Refusal to permit inspection.

Effect, §23-2-312.

Railroads.

State highway commission.

Crossings.

Proposed road or street crossing, §23-12-304.

Transportation commission, §23-12-102.

INSTALLMENT CONTRACTS.**Insurance.**

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED INSURANCE.

INSURANCE.**Accident insurance.**

Casualty insurance generally.

See CASUALTY INSURANCE.

Credit life and disability insurance,

§§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

Mutual assessment life and disability

insurers, §§23-72-101 to 23-72-122.

See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.

Accountants.

Examination of insurers.

Commissioner may retain certified public accountant, §23-61-203.

Accounts and accounting.

Life and health insurance guaranty association.

Accident and health insurance account.

Maintenance by association, §23-96-109.

Life insurance and annuity account.

Maintenance by association, §23-96-109.

Acquisitions involving insurers not otherwise covered.

Applicability of provisions, §23-63-526.

Inapplicable provisions, §23-63-530.

Competitive standard, §23-63-528.

Definitions, §23-63-525.

Orders and penalties, §23-63-529.

Preacquisition notification, §23-63-527.

INSURANCE —Cont'd**Acquisitions involving insurers not otherwise covered —Cont'd**

Waiting period, §23-63-527.

Actions.

Casualty insurance.

No liability or cause of action against person for information or statements relating to cancellation or nonrenewal of policies, §23-89-308.

Commissioner.

Enforcement powers, §23-61-110.

Direct actions, §23-79-210.

Health insurance.

Legal actions, §23-85-116.

Mutual assessment life and disability insurers.

Venue and service of process, §23-72-120.

Policies.

Attorney's fees.

Allowance of fees in suits to terminate, modify or reinstate policy, §23-79-209.

Suits against insurers, §23-79-209.

Limitation of actions, §23-79-202.

Suits against insurers, §23-79-202.

Automobile liability insurers, §23-79-201.

Power to sue certain insurers, §23-79-201.

Damages and attorney's fees on loss claims, §23-79-208.

Disclosure upon request of person injured or damaged, §23-79-210.

Evidence of death of person in military service, §23-79-206.

Liability insurer may be sued direct where insured not subject to suit for tort, §23-79-210.

Part of policy, §23-79-210.

Purpose of law, §23-79-210.

Service of process, §23-79-205.

Substantial compliance as to fire insurance of personal property, §23-79-207.

Trial by jury, §23-79-203.

Venue, §23-79-204.

Reciprocal insurers.

Name used in suits, §23-70-104.

Surplus lines.

Insurers may be sued, §23-65-318.

Service of process, §23-65-318.

Unauthorized insurers.

Defense of action, §23-65-205.

INSURANCE —Cont'd**Actions —Cont'd**

Unauthorized insurers —Cont'd

Suits by unauthorized insurers prohibited, §23-65-102.

Actuaries.

Examination of insurers.

Commissioner may retain independent actuaries, §23-61-203.

Adjusters.

Defined, §23-64-102.

Licenses.

Contents, §23-64-214.

Continuance of license, §23-64-215.

Issuance, §23-64-214.

Partnerships, limited partnerships, joint ventures, limited liability companies, and corporations, §23-64-210.

Qualifications, §23-64-209.

Required, §23-64-201.

Scope of chapter, §23-64-101.

Adoption.

Health insurance.

Coverage for adopted minors, §23-79-137.

Advertising.

False advertising.

Federal or state government endorsement, §23-66-609.

Life and health insurance guaranty association act.

Advertisement of act in insurance sales.

Prohibited, §23-96-105.

Long-term care insurance.

Compliance with subchapter.

Required, §23-97-205.

Property and casualty insurance guaranty.

Prohibited advertisements or statements, §23-90-121.

Unfair competition and trade practices.

Prior approval required, §23-66-316.

Affidavits.

Brokers.

Surplus lines, §23-65-306.

Agents.

Appointment of agent, §23-64-219.

Appointments for agents representing insurers, §23-64-206.

Burial associations.

Agent license, §23-78-113.

Continuing education, §§23-64-301 to 23-64-307.

Certification of completion, §23-64-306.

INSURANCE —Cont'd**Agents —Cont'd**

Continuing education —Cont'd

Course content and credit.

Determination, §23-64-304.

Courses or programs, §23-64-305.

Exceptions to requirements,
§23-64-302.

Extensions of time, §23-64-304.

Newly licensed agent, §23-64-303.

Requirements, §23-64-301.

Exceptions, §23-64-302.

Newly licensed agents, §23-64-303.

Rules and regulations, §23-64-304.

Teachers.

Credits, §23-64-305.

Trust fund, §23-64-307.

Defined, §23-64-102.

Exceptions and exemptions from
definitions, §23-64-103.

Education.

Continuing education, §§23-64-301
to 23-64-307. See within this
subheading, "Continuing
education."

Health insurance.

Excess or rejected business,
§23-64-225.

Licenses.

Broker and agent license
combinations, §23-64-224.

Display of license, §23-64-220.

Risk retention and purchasing
groups, §§23-94-211, 23-94-213.

Vending machines, §23-64-221.

Life insurance.

Excess or rejected business,
§23-64-225.

Place of business, §23-64-220.

Policies.

Information about agent to be
included in policy, §23-79-138.

Records.

Keeping, §23-64-220.

Risk retention and purchasing groups.

Licenses, §§23-94-211, 23-94-213.

Scope of chapter, §23-64-101.

Surplus lines.

Brokers may accept business from
agents, §23-65-309.Termination of appointment,
§23-64-219.Rights of agents following,
§23-64-226.

Title insurance.

Licensing, §§23-103-101 to
23-103-316.

See TITLE INSURANCE.

INSURANCE —Cont'd**Agents —Cont'd**Unfair competition and trade
practices.

Favored agent or insurer.

Coercion of debtors, §23-66-312.

Agriculture.Farmers' mutual aid associations,
§§23-73-101 to 23-73-123.See FARMERS' MUTUAL AID
ASSOCIATIONS.**Alcoholic beverages.**Care and treatment of alcohol and
drug dependency.Insurers transacting health,
accident or disability insurance
in state.Requirements of group policies,
contracts and plans providing
hospital and medical
coverage, §23-79-139.

Health insurance.

Policy provisions, §23-85-126.

Alien insurers.

Defined, §23-60-102.

Domicile, §23-63-104.

Ambulances.Direct reimbursement for ambulance
services, §23-79-148.**Amendments.**

Certificates of authority, §23-63-211.

Domestic stock and mutual insurers.

Articles of incorporation, §23-69-107.

Farmers' mutual aid associations.

Articles of association or bylaws,
§23-73-111.Mutual assessment life and disability
insurers.

Bylaws, §23-72-110.

Amusement ride and amusement**attraction safety insurance,**

§§23-89-501 to 23-89-518.

Annuities.**Amusement ride and amusement****attraction safety insurance,**

§§23-89-501 to 23-89-518.

Dividends, §23-81-126.

Grace period, §23-81-122.

Guaranty association.

Life and health insurance guaranty
association, §§23-96-101 to
23-96-121.

See LIFE INSURANCE.

Individual deferred annuities.

Nonforfeiture law, §§23-81-301 to
23-81-312. See within this
subheading, "Nonforfeiture law
for individual deferred
annuities."

INSURANCE —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd**

Life insurance.

Valuation laws for life insurance and annuities.

See LIFE INSURANCE.

Nonforfeiture law for individual deferred annuities.

Additional benefits, §23-81-311.

Applicability of law, §23-81-302.

Effective date, §23-81-312.

Calculation of cash surrender values, §§23-81-306, 23-81-308.

Calculation of minimum values, §23-81-304.

Calculation of paid-up annuity benefits, §§23-81-307, 23-81-308.

Calculation of present value, §23-81-305.

Cash surrender values.

Calculation, §23-81-306.

Maturity date, §23-81-308.

Citation of law.

Short title, §23-81-301.

Contracts.

Disclosure of limited death benefits, §23-81-309.

Required provisions, §23-81-303.

Death benefits.

Limited death benefits.

Disclosure, §23-81-309.

Effective date, §23-81-312.

Exceptions to provisions, §23-81-302.

Inclusion of lapse of time considerations, §23-81-310.

Lapse of time considerations.

Inclusion, §23-81-310.

Limited death benefits.

Disclosure, §23-81-309.

Maturity date, §23-81-308.

Minimum values, §23-81-304.

Calculation, §23-81-304.

Paid-up annuity benefits.

Calculation, §23-81-307.

Maturity date, §23-81-308.

Present value.

Computation, §23-81-305.

Proration of values, §23-81-311.

Required provisions, §23-81-303.

Short title of law, §23-81-301.

Title of law.

Short title, §23-81-301.

Policies.

Assignability of rights, §23-79-122.

Contestability, §23-81-123.

Dividends, §23-81-126.

INSURANCE —Cont'd**Amusement ride and amusement attraction safety insurance —Cont'd**

Policies —Cont'd

Entire contract provisions, §23-81-124.

Exemption of proceeds, §23-79-134.

Grace period, §23-81-122.

Incontestability, §23-81-123.

Misstatement of age, §23-81-125.

Reinstatement, §23-81-127.

Standard provisions, §23-81-128.

Annuity and pure endowment contracts, §23-81-121.

Reversionary annuities, §23-81-128.

Proceeds.

Exemptions, §23-79-134.

Reinstatement, §23-81-127.

Standard provisions, §§23-81-121, 23-81-128.

Annuity and pure endowment contracts, §23-81-121.

Reversionary annuities, §23-81-128.

Valuation laws for life insurance and annuities, §§23-84-101 to 23-84-113.

See LIFE INSURANCE.

Annulment of marriage.

Group and blanket health insurance.

Continuation of coverage upon change in marital status, §23-86-114.

Antiarson applications, §§23-88-201 to 23-88-210.

See ARSON.

Antifraud assessment, §§23-100-104, 23-100-105.

Appeals.

Burial associations.

Revocation of certificates of authority, §§23-78-124, 23-78-125.

Commissioner.

Decisions of commissioner, §23-61-307.

Credit life and disability insurance.

Parties aggrieved by decisions of commissioner, §23-87-119.

Delinquency proceedings, §23-68-103.

Holding companies.

Acts or determinations of commissioner, §23-63-519.

Material transactions disclosures, §23-63-1406.

INSURANCE —Cont'd**Appeals —Cont'd**

Policies.

Commercial property and casualty insurance policies.

Appeals from orders of commissioner, §23-79-309.

Property and casualty insurance guaranty.

Rulings of commissioner, §23-90-123.

Rural risk underwriting association.

Applicants for policy, persons insured under plan and others affected by plan may appeal to commissioner, §23-88-309.

Appearances.

Unfair competition and trade practices.

Hearings, §23-66-209.

Application of code, §23-60-103.

Exempted organizations and activities, §23-60-104.

Particular provisions prevail, §23-60-105.

Appraisers.

Examination of insurers.

Commissioner may retain appraisers, §23-61-203.

Arson.

Antiarson applications, §§23-88-201 to 23-88-210.

See ARSON.

Articles of association.

Farmers' mutual aid associations, §23-73-106.

Amendment, §23-73-111.

Assessments.

Burial associations.

Membership dues and assessments, §23-78-116.

Delinquency proceedings.

Order and levy of assessment, §23-68-131.

Prima facie correct, §23-68-132.

Report and petition for assessment, §23-68-130.

Domestic stock and mutual insurers.

Stockholders or members, §23-69-139.

Life and health insurance guaranty association.

Assessment of member insurers, §23-96-115.

Mutual assessment life and disability insurers.

Additional assessments, §23-72-112.

INSURANCE —Cont'd**Assessments —Cont'd**

Mutual assessment life and disability insurers —Cont'd

Pro rata assessment plans.

Defined, §23-72-101.

Guidelines for transactions, §23-72-107.

Reclassification and rearrangement of members, §23-72-116.

Special provisions, §23-72-111.

Property and casualty insurance guaranty.

Accounting for and repayment of assessments, §23-90-114.

Claims, §23-90-112.

Taxation.

Credit against taxes, §23-90-119.

Reciprocal insurers, §23-70-118.

Nonassessable policies, §23-70-120.

Time limit for assessments, §23-70-118.

Rural risk underwriting association.

Governing board empowered to make, §23-88-306.

Assets.

Conflicts in treatment of, §23-63-610.

Deductions from liabilities, §23-63-602.

Defined, §23-63-601.

Delinquency proceedings.

Attachment and garnishment, §23-68-120.

Borrowing on pledge of assets, §23-68-123.

Deposits.

Assignment or conveyance of securities or assets, §23-63-906.

Domestic stock and mutual insurers.

Dissolution.

Distribution of assets to stockholders, §23-69-154.

Impairment of capital or assets, §23-69-138.

Liquidation.

Mutual member's share of assets upon liquidation, §23-69-155.

Limitations, §23-63-603.

Purpose of provisions, §23-63-612.

Reciprocal insurers.

Liquidation of companies.

Subscribers' share in assets, §23-70-122.

Assigned risk.

Casualty insurance.

Eligibility for automobile liability insurance through automobile liability assigned risk plan, §23-89-307.

INSURANCE —Cont'd**Assignments.**

Deposits.

Conveyance or assignment of securities or assets, §23-63-906.

Group annuities and group life insurance.

Right of insured to assign any or all of his rights or incidents of ownership under policy, §23-83-125.

Assignment without prejudice, §23-83-126.

Life and health insurance guaranty association.

Assignment rights, §23-96-114.

Associations.

Burial associations, §§23-78-101 to 23-78-125.

See BURIAL INSURANCE ASSOCIATIONS.

Farmers' mutual aid associations, §§23-73-101 to 23-73-123.

See FARMERS' MUTUAL AID ASSOCIATIONS.

Life and health insurance guaranty association, §§23-96-101 to 23-96-121.

See LIFE INSURANCE.

Attachment.

Delinquency proceedings.

Assets, §23-68-120.

Mutual assessment life and disability insurers.

Benefits not subject to attachment, §23-72-114.

Stipulated premium insurers.

Benefits not subject to attachment, §23-71-112.

Attorneys at law.

Actions.

Suits against insurers.

Damages and attorney's fees on loss claims, §23-79-208.

Examination of insurers.

Commissioner may retain attorneys, §23-61-203.

Fees.

See ATTORNEYS' FEES.

Legal insurance, §§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

Reciprocal insurers.

Bonds, surety, §23-70-110.

Action on bond, §23-70-110.

Deposit in lieu of bond, §23-70-110.

Power of attorney, §23-70-108.

INSURANCE —Cont'd**Banks.**

Investments.

International banks, §23-63-813.

Beneficiaries.

Health insurance.

Change of beneficiary, §23-85-117.

Industrial life insurance.

Policies.

Designation of beneficiary on policies, §23-82-114.

Benefits.

Casualty insurance.

Exclusion of benefits, §23-89-205.

Minimums, §23-89-201.

Payments under coverage, §23-89-208.

Reimbursement.

Insurers' rights of reimbursement, §23-89-207.

Children's preventive health care act, §23-79-141.

Industrial life insurance.

Nonforfeiture benefits, §23-82-110.

Life and health insurance guaranty association.

Assignment or subrogation of rights, §23-96-114.

Liability, §23-96-114.

Life insurance.

Fixed amounts, §23-81-402.

Payment in fixed and/or variable amounts, §23-81-402.

Variable amounts, §23-81-402.

Minimum basic benefit policies, §23-98-106.

Mutual assessment life and disability insurers.

Adjustments of rates or benefits, §23-72-112.

Attachment, §23-72-114.

Level or stipulated plan insurers, §23-72-113.

Stipulated premium insurers.

Attachment, §23-71-112.

Binders.

Policies, §23-79-120.

Blanket insurance.

Health insurance.

Group and blanket health insurance. See HEALTH INSURANCE.

Bond issues.

Investments.

Corporate bonds and debentures, §23-63-814.

Improvement district obligations, §23-63-810.

INSURANCE —Cont'd**Bond issues —Cont'd****Investments —Cont'd**

Local industrial development bonds,
§23-63-811.

Municipal or county utilities,
§23-63-809.

Public obligations, §23-63-808.

United States government
obligations, §23-63-806.

Bonds, surety.**Brokers.**

Licenses, §23-64-208.

Burial associations.**Board.**

Executive secretary, §23-78-107.

Commissioner, §23-61-102.

Domestic stock and mutual insurers.

Formation of nonlife mutual insurer,
§23-69-113.

Licenses.

Brokers, §23-64-208.

Managing general agents, §23-64-403.

Mutual assessment life and disability
insurers, §23-72-105.

Reciprocal insurers.

Attorneys at law, §23-70-110.

Action on bond, §23-70-110.

Deposit in lieu of bond,
§23-70-110.

Risk management.

Procurement of insurance or surety
bonding under emergency
conditions, §23-61-606.

Surety insurers, §§23-63-1001 to
23-63-1004.

Estoppel, §23-63-1004.

Expenses, §23-63-1001.

Individual rights, §23-63-1003.

Sole surety on official bonds,
§23-63-1002.

Court, judicial and other bonds,
§23-63-1001.

Brokers.**Affidavits.**

Surplus lines, §23-65-306.

Continuing education, §§23-64-301 to
23-64-307.

Certification of courses completed,
§23-64-306.

Course content and credit.

Determination, §23-64-304.

Courses or programs, §23-64-305.

Exceptions to requirements,
§23-64-302.

Extension of time, §23-64-304.

Newly licensed brokers, §23-64-303.

INSURANCE —Cont'd**Brokers —Cont'd****Continuing education —Cont'd**

Requirements, §23-64-301.

Exceptions, §23-64-302.

Newly licensed brokers,
§23-64-303.

Rules and regulations, §23-64-304.

Teachers.

Credit, §23-64-305.

Trust fund, §23-64-307.

Defined, §23-64-102.

Exceptions and exemptions from
definitions, §23-64-103.

Licenses.

Agent and broker license
combinations, §23-64-224.

Bonds, surety, §23-64-208.

Display of license, §23-64-220.

Scope of broker's license, §23-64-207.

Surplus lines, §23-65-308.

Suspension, revocation or refusal of
license.

Surplus lines, §23-65-317.

Place of business, §23-64-220.

Records.

Keeping, §23-64-220.

Risk retention and purchasing groups.

Licenses, §§23-94-211, 23-94-213.

Scope of chapter, §23-64-101.

Surplus lines.

Acceptance of business from agents,
§23-65-309.

Affidavit, §23-65-306.

Annual statement, §23-65-314.

Compliance with provisions.

Penalty for failure to comply,
§23-65-316.

Licensing of surplus line brokers,
§23-65-308.

Revocation, §23-65-317.

Records, §23-65-313.

Tax on surplus line brokers,
§23-65-315.

Withdrawal of approval of insurer.

Notification of broker, §23-65-319.

Burial insurance associations,

§§23-78-101 to 23-78-125.

See BURIAL INSURANCE
ASSOCIATIONS.

Bylaws.

Farmers' mutual aid associations,
§23-73-110.

Amendments, §23-73-111.

Mutual assessment life and disability
insurers, §23-72-109.

Amendments, §23-72-110.

Filing, §23-72-110.

INSURANCE —Cont'd**Cancellation of policies or contracts.**

Prohibited grounds, §23-63-110.

Cancer.

Mammograms.

Coverage for mammogram screening
of occult breast cancer.

Generally, §23-79-140.

Definitions, §23-79-112.

Prescription medication.

Coverage, §23-79-147.

Capital.

Domestic stock and mutual insurers.

Impairment, §23-69-138.

Captions not to affect meaning,

§23-60-107.

Captive insurance companies,

§§23-63-1601 to 23-63-1623.

See CAPTIVE INSURANCE
COMPANIES.

Carriers.

Uninsured motorist liability insurance,

§§23-16-301 to 23-16-304.

See CARRIERS.

Casualty insurance.

See CASUALTY INSURANCE.

Cease and desist orders.

Unfair competition and trade

practices, §§23-66-210, 23-66-212.

Penalties for violations, §23-66-211.

Certificates.

Children's preventive health care act.

Required provisions, §23-79-141.

Credit life and disability insurance.

Forms.

Filing, approval and withdrawal of
forms, §23-87-112.

Policies.

Delivery of policy or certificate,
§23-87-111.

Provisions of policies and
certificates.

Disclosure to debtors,
§23-87-110.

Group and blanket health insurance.

Policies.

Applications and certifications,
§23-86-103.

Life insurance.

Deposits.

Fees for certificate, §23-81-131.

Policies.

Commissioner's certificate on
policy, §23-81-131.

Certificates of authority.

Farmers' mutual aid associations.

Qualifications, §23-73-112.

INSURANCE —Cont'd**Certificates of authority —Cont'd**

Mutual assessment life and disability
insurers.

Refusal or revocation.

Grounds, §23-72-106.

Property and casualty insurance
guaranty.

Suspension or revocation,
§23-90-113.

Reciprocal insurers.

Issuance, §23-70-107.

Certificates of deposit.

Investments, §23-63-836.

Checks.

Prompt processing by insurer,
§23-63-107.

**Children's preventive health care
act.**

Benefits, §23-79-141.

Certificates.

Required provisions, §23-79-141.

Contracts.

Required provisions, §23-79-141.

Coverage.

Periodic physical examination,
§23-79-141.

Definitions, §23-79-141.

Health insurance, §23-79-141.

Periodic physical examinations.

Coverage for, §23-79-141.

Defined, §23-79-141.

Policies.

Required provisions, §23-79-141.

Purposes of section, §23-79-141.

Claims.

Credit life and disability insurance.

Reporting, §23-87-115.

Deposits.

Payment of claims out of deposit,
§23-63-909.

Health insurance.

Forms, §23-85-111.

Standard claims form required,
§23-85-136.

Notice of claim, §23-85-110.

Payment of claims.

Policy provision for payment of
claims, §23-85-114.

Time of payment provision,
§23-85-113.

Life insurance.

Interest on proceeds, §23-81-118.

Payment, §23-81-113.

Premiums to accompany proceeds,
§23-81-118.

Liquidation.

Allowance of certain claims,
§23-68-128.

INSURANCE —Cont'd**Claims —Cont'd****Liquidation —Cont'd**

Foreign insurance companies,
§23-68-117.

Form, §23-68-118.

Hearings, §23-68-118.

Nonresidents claims against
domestic insurers, §23-68-116.

Notice, §23-68-118.

Priority of certain claims,
§23-68-119.

Priority of claims for compensation,
§23-68-126.

Legislative intent, §23-68-134.

Time to file, §23-68-129.

Mutual assessment life and disability
insurers.

Scaling of claims.

Notice to members, §23-72-115.

Payment.

Prompt processing by insurer,
§23-63-107.

Policies.

Health, medical or surgical plan or
accident claims of \$300 or less.

Nonpayment.

Penalty for late or nonpayment
of claim, §23-79-135.

Waiver, §23-79-127.

Prompt processing of payment,
§23-63-107.

Property and casualty insurance
guaranty.

Applicability of chapter, §23-90-111.

Estimation of amount needed to pay
claims, §23-90-112.

Notification of insureds, §23-90-111.

Payment, §23-90-115.

Covered claims, §23-90-115.

Estimation of amount needed to
pay claims, §23-90-112.

Right of recovery, §23-90-117.

Rehabilitation.

Allowance of certain claims,
§23-68-128.

Foreign insurance companies,
§23-68-117.

Form, §23-68-118.

Hearings, §23-68-118.

Nonresidents claims against
domestic insurers, §23-68-116.

Notice, §23-68-118.

Priority of claims, §§23-68-119,
23-68-126.

Legislative intent, §23-68-134.

Time to file, §23-68-129.

INSURANCE —Cont'd**Claims —Cont'd**

Unfair competition and trade
practices.

False claims or proofs, §23-66-301.

Code.

Application of code as to particular
types of insurers, §23-60-103.

**Commercial lines property
insurance.**

Policies.

Commercial property and casualty
insurance policies.

Minimum standards, §§23-79-301
to 23-79-312. See within this
heading, "Policies."

Commissioner.

Annual report, §23-61-112.

Appeals from commissioner,
§23-61-307.

Appointment, §23-61-102.

Assistants, §23-61-104.

Bond, surety, §23-61-102.

Books and records.

Certified copies and certificates,
§23-61-107.

Examinations, §23-61-204.

Keeping, §23-61-107.

Compensation, §23-61-102.

Conduct of hearings, §23-61-305.

Confidentiality of information.

Books and records, §23-61-107.

Conflicts of interest, §23-61-106.

Continuing care providers,
§§23-93-101 to 23-93-114.

See CONTINUING CARE
PROVIDERS.

Defined, §23-60-102.

Delegation of powers, §23-61-103.

Deputies, §23-61-104.

Documents as evidence, §23-61-102.

Duties.

Generally, §23-61-103.

Evidence.

Hearings, §23-61-301.

Examination expenses, §23-61-206.

Examination of insurers, §23-61-201.

Accountants.

Power to retain certified public
accountant, §23-61-203.

Actuaries.

Power to retain independent
actuaries, §23-61-203.

Appraisers.

Power to retain appraiser,
§23-61-203.

Attorneys at law.

Power to retain attorneys,
§23-61-203.

INSURANCE —Cont'd**Commissioner —Cont'd**

Examination of insurers —Cont'd

Conduct of examination, §23-61-204.

Confidentiality of ancillary information, §23-61-207.

Examiners, §23-61-203.

Immunity from liability, §23-61-208.

Examination of managers and promoters, §23-61-202.

Conduct of examination, §23-61-204.

Examination reports, §23-61-205.

Expense allowance, §23-61-105.

Fees.

Disposition, §23-61-402.

Schedule of fees, §23-61-401.

Fraudulent insurance acts.

Investigative authority, §23-66-504.

General powers and duties, §23-61-103.

Hearings.

Conduct, §23-61-305.

Evidence, §23-61-301.

Immunity from prosecution, §23-61-302.

Notice, §23-61-304.

Order on hearing, §23-61-306.

Purpose of holding, §23-61-303.

Testimony compelled, §23-61-302.

Witnesses, §23-61-301.

Insurance fraud investigation division, §§23-100-101 to 23-100-107. See within this heading, "Fraud."

Liability.

Civil liability.

Absence of fraud or bad faith, §23-60-111.

Life and health insurance guaranty association.

Duties.

Generally, §23-96-118.

Examination of association, §23-96-109.

Insolvencies or impairments.

Detection and prevention, §23-96-117.

Powers.

Generally, §23-96-118.

Regulation by commissioner, §23-96-109.

Supervision of association, §23-96-109.

Long-term care insurance.

Defined, §23-97-203.

Malpractice, study and report on insurance rates, §23-61-114.

INSURANCE —Cont'd**Commissioner —Cont'd**

Minimum basic benefit policies.

Approval of forms and rates, §23-98-110.

Defined, §23-98-102.

Rules and regulations.

Notice and hearing before adoption, §23-98-103.

Notice, §23-61-109.

Hearings, §23-61-304.

Oath, §23-61-102.

Order on hearing, §23-61-306.

Orders, §23-61-109.

Powers.

Delegation, §23-61-103.

Enforcement powers, §23-61-110.

Generally, §23-61-103.

Prepaid funeral benefits division, §23-40-107.

Prohibited interests and rewards, §23-61-106.

Property and casualty insurance policy simplification.

Powers, §23-80-305.

Records.

Certified copies and certificates, §23-61-107.

Examinations, §23-61-204.

Keeping, §23-61-107.

Reports.

Annual report, §23-61-112.

Examination reports, §23-61-205.

Risk retention and purchasing groups.

Administrative and procedural authority regarding, §23-94-212.

Defined, §23-94-203.

Rules and regulations, §23-94-215.

Risk-sharing plans for property and casualty insurance, §§23-95-101 to 23-95-108.

Construction, §23-95-102.

Governing board, §23-95-103.

Information of individuals, §23-95-106.

Liability, §23-95-107.

Plan for coverage.

Contents, §23-95-105.

Required, §23-95-104.

Purpose, §23-95-101.

Rules and regulations, §23-95-108.

Rules and regulations.

Captive insurance companies, §23-63-1615.

Disclosure of nonpublic personal information, §23-61-113.

Financial reporting, §23-63-613.

INSURANCE —Cont'd**Commissioner —Cont'd**

Rules and regulations —Cont'd
Insurance producer licensing,
§23-64-518.

Promulgation, §23-61-108.

Protected cell companies,
§23-63-1709.

Rural risk underwriting association.

Certification of aggregate net direct
property insurance premiums
written on property by
members, §23-88-308.

Definition of commissioner,
§23-88-302.

Plan.

Submission to commissioner,
§23-88-305.

Rules and regulations, §23-88-308.

Seal, §23-61-102.

Small employer health insurance.

Definition of "commissioner,"
§23-86-202.

Suspension of certain provisions.

Discretion of commissioner,
§23-86-208.

Term, §23-61-102.

Unfair competition and trade
practices.

Powers, §23-66-208.

Witnesses, §23-61-301.

Companies.

Direct actions against, §23-79-210.

**Compliance with provisions
required, §23-60-110.****Comprehensive health insurance
pool, §§23-79-501 to 23-79-510.**

See COMPREHENSIVE HEALTH
INSURANCE POOL.

Confidentiality of information.

Commissioner.

Examination of insurers.

Ancillary information, §23-61-207.

Disclosure of nonpublic personal
information, §23-61-113.

Domestic stock and mutual insurers.

Provisions for the prevention of
unfair use of information by
owners, directors or officers,
§23-69-205.

Fraudulent insurance acts.

Mandatory reporting, §23-66-507.

Group and blanket health insurance.

Mental health coverage, §23-86-113.

Holding companies, §23-63-517.

Mutual insurance holding
companies, §23-69-320.

Records, §23-63-517.

INSURANCE —Cont'd**Conflicts of interest.**

Commissioner, §23-61-106.

Property and casualty insurance
guaranty.

Advisory association.

Members may enter into
contracts, §23-90-110.

Conservation.

Alien insurance companies.

Grounds for conservation,
§23-68-108.

Foreign insurance companies.

Grounds for conservation,
§23-68-108.

Grounds for conservation, §23-68-108.

Order of conservation, §23-68-112.

Protected cell companies, §23-63-1707.

Consolidations.

Domestic stock and mutual insurers.

Acquiring corporations under a plan
of exchange to be separate,
§23-69-147.

Effect, §23-69-145.

Exchange of stock of stock insurers,
§23-69-142.

Effect of exchange under plan,
§23-69-146.

Mutual insurers, §23-69-143.

Nonconsenting stockholders,
§23-69-148.

Plan of exchange of shares
agreement, §23-69-144.

Construction and interpretation.

Captions not to affect meaning,
§23-60-107.

Credit life and disability insurance,
§23-87-105.

Definitions not mutually exclusive,
§23-62-101.

Particular provisions prevail,
§23-60-105.

Policies.

Commercial property and casualty
insurance policies.

Construed and applied in
accordance with provisions of
subchapter, §23-79-308.

Effect of subchapter upon prior
law, §23-79-304.

Prior acts, offenses and rights.

Not affected, §23-60-106.

Risk-sharing plans for property and
casualty insurance.

Effect upon prior laws, §23-95-102.

INSURANCE —Cont'd**Consumer credit information, use in personal insurance, §§23-67-401 to 23-67-415.**

Adverse agency notification,
§23-67-408.

Citation of act, §23-67-401.

Claims history report, §23-67-411.

Construction of act.

Applicability of the fair credit reporting act, §23-67-412.

Public policy, §23-67-402.

Scope, §23-67-403.

Credit reporting agencies.

Sale of policy term information,
§23-67-411.

Credit scoring, §23-67-405.

Definitions, §23-67-404.

Dispute resolution and error correction, §23-67-406.

Fair credit reporting act.

Applicability, §23-67-412.

Filing requirements.

Scoring models or other scoring process, §23-67-409.

Indemnification of agents, §23-67-410.

Individual underwriting, §23-67-413.

Initial notification, §23-67-407.

Motor vehicle report, §23-67-411.

Prohibited use of credit information,
§23-67-405.

Proprietary consumer report scoring system and model, §23-67-409.

Public policy, §23-67-402.

Reporting requirements, §23-67-415.

Restriction of credit score information,
§23-67-405.

Risk on individual basis, §23-67-413.

Rulemaking authority, §23-67-414.

Scope of act, §23-67-403.

Scoring models or other scoring process.

Filing requirements, §23-67-409.

Third party scoring models.

Filing requirements, §23-67-409.

Title of act, §23-67-401.

Use of credit information, §23-67-405.

Consumer sales protection act, §§23-66-601 to 23-66-609.

Definitions, §23-66-603.

Exemptions, §23-66-604.

Loans, §23-66-605.

Powers of commissioner in administrative proceedings,
§23-66-610.

Privacy, §23-66-607.

Prohibited activities, §23-66-609.

Purpose, §23-66-602.

INSURANCE —Cont'd**Consumer sales protection act —Cont'd**

Regulations, §23-66-608.

Sales practices, §23-66-606.

Short title, §23-66-601.

Contributions.

Domestic stock and mutual insurers.

Authorization, §23-69-111.

Controlled substances.

Health insurance.

Policy provisions, §23-85-126.

Conversions.

Captive insurance companies,
§23-63-1619.

Domestic stock and mutual insurers,
§23-69-141.

Mutual assessment life and disability insurers.

Merger or bulk reinsurance or conversion, §23-72-119.

Reciprocal insurers, §23-70-123.

Stipulated premium insurers.

Legal reserve insurers, §23-71-116.

Conversion to mutual insurer.

Farmers' mutual aid association,
§23-73-117.

Conveyances.

Deposits.

Assignment or conveyance of securities or assets, §23-63-906.

Corporations.

Companies generally.

See INSURANCE COMPANIES.

Counties.

Direct actions against insurer,
§23-79-210.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

Claims, §23-101-110.

Definitions, §23-101-103.

Disclosures, §23-101-113.

Evidence of coverage, §23-101-107.

Forms, §23-101-108.

Premiums, §23-101-106.

Refunds, §23-101-109.

Remittance, §23-101-112.

Prohibited coverage, §23-101-104.

Purpose, §23-101-101.

Rates, §23-101-108.

Regulations, §23-101-114.

Rights and obligations of parties,
§23-101-111.

Scope, §23-101-102.

Term, §23-101-105.

Credit unions.

Organization, §23-35-104.

INSURANCE —Cont'd**Criminal law and procedure.**

Default by insurance producer,
§23-64-232.

Holding companies.

Proceedings for violations,
§23-63-522.

Damages.

Health insurance.

Primary eye care providers.

Remedies for violations,
§23-99-305.

Unauthorized insurers.

Actions against unauthorized
insurers, §23-65-205.

Debts.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

Defenses.

Health insurance.

Policies.

Time limit on certain defenses,
§23-85-107.

Unauthorized insurers.

Actions against, §23-65-205.

Definitions, §23-60-102.

Accident and health insurance,
§23-62-103.

Acquisitions involving insurers not
otherwise covered, §23-63-525.

Adjusters, §23-64-102.

Agents, §23-64-102.

Exemptions and exceptions from
definitions, §23-64-103.

Amusement ride and amusement
attraction safety insurance,
§23-89-502.

Antiarson applications, §23-88-202.

Assets, §23-63-601.

Brokers, §23-64-102.

Exceptions and exemptions from
definitions, §23-64-103.

Burial associations, §23-78-101.

Captive insurance companies,
§23-63-1601.

Casualty insurance, §23-62-105.

Cancellation of policies, §23-89-301.

Uninsured motor vehicles,
§23-89-401.

Children's preventive health care act,
§23-79-141.

Claims-made policy, §23-79-303.

Construction, §23-62-101.

Consumer protection, §23-66-603.

Credit life and disability insurance,
§23-87-103.

INSURANCE —Cont'd**Definitions —Cont'd**

Domestic stock and mutual insurers,
§23-69-102.

Equity securities, §23-69-201.

Farmers' mutual aid associations,
§23-73-101.

Fraternal benefit societies, §23-74-101.
Generally, §23-74-104.

Lodge system, §23-74-102.

Representative form of government,
§23-74-103.

Fraudulent insurance act, §23-66-501.

Funding agreements, §23-62-109.

Genetic nondiscrimination in
insurance act, §23-66-320.

Group and blanket health insurance.

Blanket accident and health
insurance, §23-86-101.

Group accident and health
insurance, §23-86-106.

Health insurance.

Outpatient coverage, §23-85-133.

Health maintenance organizations,
§23-76-102.

Holding companies, §23-63-503.

Home service system of distribution,
§23-66-402.

Hospital and medical service
corporations, §23-75-101.

Industrial life insurance, §23-82-101.

Insurance consultant, §23-64-102.

Large commercial risks, §23-79-109.

Legal insurance, §23-91-203.

Life and health insurance guaranty
association, §23-96-104.

Life insurance, §23-62-102.

Liquidation, §23-68-102.

Long-term care insurance, §23-97-203.

Mammograms.

Diagnostic mammography,
§23-79-140.

Screening mammography,
§23-79-140.

Marine insurance, §23-62-107.

Minimum basic benefit policies,
§23-98-102.

Multiple employer trust and
self-insured plans, §23-92-201.

Mutual assessment life and disability
insurers.

Level or stipulated rate plans,
§23-72-101.

Pro rata assessment plans,
§23-72-101.

Mutual insurance holding companies,
§23-69-303.

INSURANCE —Cont'd**Definitions —Cont'd**

- Policies, §23-79-101.
 - Life and health insurance policy language simplification, §23-80-203.
- Premiums, §23-79-101.
- Producer licensing, §23-64-502.
- Property and casualty insurance guaranty, §23-90-103.
- Property and casualty insurance policy simplification, §23-80-303.
- Property insurance, §23-62-104.
- Protected cell company act, §23-63-1703.
- Rates and rating organizations, §23-67-202.
- Reciprocal insurers, §23-70-101.
- Rehabilitation, §23-68-102.
- Resident agent, §23-64-102.
- Risk-based capital requirements for health organizations, §§23-63-1501, 23-63-1503 to 23-63-1506.
- Risk management, §23-61-603.
- Risk retention and purchasing groups, §23-94-203.
- Rural risk underwriting association, §23-88-302.
- Small employer health insurance, §23-86-202.
- Stipulated premium insurers, §23-71-101.
- Surety insurance, §23-62-106.
- Title insurance, §23-62-108.
- Unfair competition and trade practices, §§23-66-203, 23-66-206.
- Uninsured motor vehicles, §23-89-401.
- Use of credit information in personal insurance, §23-67-404.

Dental point of service option.

- Health insurance carriers, §§23-99-601 to 23-99-608.

Department of insurance.

- Continuation, §23-61-101.
- Defined, §23-60-102.
- Purpose, §23-61-101.

Deposits.

- Appraisal, §23-63-906.
- Assignment or conveyance of securities or assets, §23-63-906.
- Authorized deposits, §23-63-901.
- Claims.
 - Payment of claims out of deposit, §23-63-909.
- Companies.
 - Requirements, §23-63-206.
- Deficiency, §23-63-910.

INSURANCE —Cont'd**Deposits —Cont'd**

- Depository or custodian, §23-63-904.
- Duration and release.
 - Generally, §23-63-911.
 - Life insurance and annuity reserves, §23-63-912.
- Excess deposits, §23-63-908.
- Life insurance.
 - Capital deposits may be credited, §23-81-135.
 - Certificates.
 - Fee for certificate, §23-81-131.
 - Reserves, §23-81-130.
 - Deficiency of deposit, §23-81-136.
 - Deposit of capital may be credited, §23-81-135.
- Liquidation.
 - Moneys collected, §23-68-121.
- Purposes, §23-63-902.
- Records, §23-63-905.
 - Liability of commissioner and state, §23-63-905.
- Rehabilitation.
 - Moneys collected, §23-68-121.
- Rights of insurer during solvency, §23-63-907.
- Securities eligible for deposit, §23-63-903.
- Stipulated premium insurers, §23-71-110.
 - Guaranty fund deposit, §23-71-110.
 - Return of deposit, §23-71-110.
- Diabetes coverage**, §§23-79-601 to 23-79-607.
- Direct actions statute**, §23-79-210.
- Disability insurance.**
 - Credit life and disability insurance, §§23-87-101 to 23-87-119.
 - See CREDIT LIFE AND DISABILITY INSURANCE.
- Health insurance.
 - Generally.
 - See HEALTH INSURANCE.
- Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.
 - See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.
- Disabled persons.**
 - Health insurance policies.
 - Age requirement, §23-85-131.
- Discovery.**
 - Unfair competition and trade practices.
 - Production of books, §23-66-209.
- Dispute resolution process.**
 - Use of credit information in personal insurance, §23-67-406.

INSURANCE —Cont'd**Dissolution.**

- Domestic stock and mutual insurers.
- Failure of mutual insurer to complete organization, §23-69-116.
- Voluntary dissolution.
 - Continuation for suit and winding up affairs, §23-69-153.
 - Directors to act as trustees, §23-69-152.
 - Distribution of assets to stockholders, §23-69-154.
 - Procedure, §23-69-151.

Dividends.

- Annuities, §23-81-126.
- Domestic stock and mutual insurers.
 - Illegal dividends, §23-69-131.
 - Mutual policyholders, §23-69-130.
 - Stockholders, §23-69-129.
- Industrial life insurance.
 - Policies, §23-82-109.
- Life insurance.
 - Policy provisions, §23-81-108.
- Rates and rating organizations.
 - Payment, §23-67-204.

Divorce.

- Group and blanket health insurance.
 - Continuation of coverage upon change in marital status, §23-86-114.

Drafts.

- Prompt processing by insurer, §23-63-107.

Drug abuse.

- Care and treatment of alcohol and drug dependency.
 - Requirements of group policies, contracts and plans, §23-79-139.
- Health insurance.
 - Policy provisions, §23-85-126.

Drunkenness.

- Care and treatment of alcohol and drug dependency.
 - Requirements of group policies, contracts and plans, §23-79-139.

Earthquake insurance.

- Arkansas earthquake authority act, §§23-102-101 to 23-102-119.
- See EARTHQUAKE AUTHORITY.

Education.

- Agents.
 - Continuing education, §§23-64-301 to 23-64-307. See within this heading, "Agents."
- Brokers.
 - Continuing education, §§23-64-301 to 23-64-307. See within this heading, "Brokers."

INSURANCE —Cont'd**Education —Cont'd**

- School districts.
 - Direct actions against insurers, §23-79-210.

Emergencies.

- Risk management.
 - Procurement of insurance or surety bonding under emergency conditions, §23-61-606.

Employers' liability insurance.

- Increase in premiums, §23-79-151.
- Rates and charges, §23-67-219.

Equity securities.

- See DOMESTIC STOCK AND MUTUAL INSURERS.

Estoppel.

- Surety insurers.
 - Denying corporate power to be surety, §23-63-1004.

Evidence.

- Commissioner, §23-61-301.
- Policies.
 - Applications, §23-79-106.
- Surplus lines, §23-65-311.

Examinations.

- Captive insurance companies, §23-63-1608.
- Farmers' mutual aid associations.
 - Applicable provisions, §23-73-114.
- Holding companies.
 - Power of commissioner, §23-63-516.
- Purposes and limitations upon, §23-63-516.
- Risk retention and purchasing groups.
 - Foreign risk retention groups, §23-94-205.

Exempted organizations and activities, §23-60-104.**Eye care providers.**

- Health insurance.
 - Primary eye care providers, §§23-99-301 to 23-99-305.
 - See HEALTH INSURANCE.

False or misleading statements.

- Penalty.
 - Generally, §23-60-109.

Fees.

- Burial associations, §23-78-111.
- Disposition of fees and charges, §23-78-123.
- Commissioner.
 - Disposition of fees, §23-61-402.
 - Schedule of fees, §23-61-401.
- Farmers' mutual aid associations.
 - Payment of annual fees or charges.
 - Not required, §23-73-116.

INSURANCE —Cont'd**Fees —Cont'd**

Foreign fees.

Retaliation, §23-63-102.

Insurance fraud investigation division trust fund, §§23-100-104, 23-100-105.

Life insurance.

Certificates, §23-81-131.

Liquidation.

Exemptions, §23-68-122.

Rehabilitation.

Exemption from fees, §23-68-122.

Fiduciaries.

Licensees.

Fiduciary duties, §23-64-223.

Fines.

Fraudulent insurance acts, §23-66-512.

Material transactions disclosures, §23-63-1406.

Fire insurance.

Policies.

Valued policy law, §23-88-101.

Fire protection districts.

See FIRE PROTECTION DISTRICTS.

Foreign decrees.

Enforcement, §23-61-111.

Foreign insurers.

Risk-based capital act, §23-63-1311.

Forms.

Credit life and disability insurance.

Policies.

Filing, approval and withdrawal of forms, §23-87-112.

Health insurance.

Claims, §23-85-111.

Standard claims form required, §23-85-136.

Policy forms, §23-85-104.

Policies.

Approval of forms, §23-79-109.

Grounds for disapproval, §23-79-110.

Noncomplying forms.

Validity, §23-79-118.

Proof of loss forms.

Furnishing, §23-79-126.

Validity of noncomplying forms, §23-79-118.

Use of credit information in personal insurance.

Sample disclosure statement, §23-67-407.

Fossil or synthetic fuel production.

Property and facilities for.

Investment by companies, §23-63-837.

INSURANCE —Cont'd**Fraternal benefit societies.**

General provisions, §§23-74-101 to 23-74-705.

See FRATERNAL BENEFIT SOCIETIES.

Fraud.

False advertising.

Federal or state government endorsement, §23-66-609.

Insurance fraud investigation division trust fund act, §§23-100-101 to 23-100-107.

Antifraud assessment, §23-100-104.

Creation, §23-100-103.

Fees, §23-100-105.

Insurers' payment extensions, §23-100-102.

Rules and regulations, §23-100-106.

Title, §23-100-101.

Vouchers, §23-100-107.

Warrants, §23-100-107.

Fraudulent insurance acts.

Commissioner.

Investigative authority, §23-66-504.

Definitions, §23-66-501.

Fraud warning, §23-66-503.

Immunity from liability, §23-66-506.

Initial appointment investigation, §23-66-513.

Insurance fraud investigation division, §23-66-508.

Funeral benefits.

Sale of prepaid benefits.

Investigations, §23-40-106.

Other law enforcement or regulatory authority, §23-66-509.

Trust fund, §§23-100-101 to 23-100-107.

Insurer antifraud initiative, §23-66-510.

Penalties, §23-66-512.

Prohibited acts, §23-66-502.

Reports.

Immunity from liability, §23-66-506.

Mandatory reporting, §23-66-505.

Confidentiality, §23-66-507.

Rules and regulations, §23-66-511.

Freedom of choice.

Health insurance.

Professionals not licensed under Arkansas medical practices act.

Right to treatment by notwithstanding policy provisions, §23-79-114.

Funds.

Companies.

Capital funds required, §23-63-205.

INSURANCE —Cont'd**Funds —Cont'd**

Insurance fraud investigation division trust fund, §§23-100-101 to 23-100-107.

Reciprocal insurers.

Surplus funds.

Required, §23-70-105.

Stipulated premium insurers.

Guaranty fund deposit, §23-71-110.

Garnishment.

Delinquency proceedings.

Assets, §23-68-120.

General penalty, §23-60-107.**Genetic nondiscrimination in insurance act, §23-66-320.****Group insurance.**

Long-term care insurance.

See LONG-TERM CARE INSURANCE.

Guaranty.

Property and casualty insurance guaranty, §§23-90-101 to 23-90-123.

See PROPERTY INSURANCE.

Guaranty association.

Life and health insurance guaranty association, §§23-96-101 to 23-96-121.

See LIFE INSURANCE.

Handicapped persons.

Health insurance.

Policies.

Age requirement, §23-85-131.

Health care benefit providers.

See HEALTH INSURANCE.

Health insurance.

Comprehensive health insurance pool, §§23-79-501 to 23-79-510.

See COMPREHENSIVE HEALTH INSURANCE POOL.

Credit life and disability insurance, §§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY INSURANCE.

Diabetes coverage, §§23-79-601 to 23-79-607.

General provisions.

See HEALTH INSURANCE.

Health maintenance organizations, §§23-76-101 to 23-76-132.

See HEALTH MAINTENANCE ORGANIZATIONS.

Medicare.

See MEDICARE.

INSURANCE —Cont'd**Health insurance —Cont'd**

Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.

See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.

Health maintenance organizations.

General provisions, §§23-76-101 to 23-76-132.

See HEALTH MAINTENANCE ORGANIZATIONS.

Hearings.

Burial associations, §§23-78-108, 23-78-124.

Certificates of authority.

Revocation or suspension, §23-63-213.

Commissioner.

Conduct of hearings, §23-61-305.

Generally, §23-61-303.

Notice of hearing, §23-61-304.

Order on hearing, §23-61-306.

Delinquency proceedings, §23-68-118.

Policies.

Commercial property and casualty insurance policies.

Violations of subchapter, §23-79-305.

Risk-based capital act, §23-63-1308.

Risk-based capital requirements for health organizations, §23-63-1507.

Risk-sharing plans for property and casualty insurance.

Availability of any amount or kind of insurance, §23-95-104.

Unfair competition and trade practices, §23-66-209.

Holding companies.

See HOLDING COMPANIES, INSURANCE.

Home service system of distribution.

Actions, §23-66-407.

Auditing systems, §23-66-404.

Citation of act, §23-66-408.

Deceptive practices, §23-66-406.

Definitions, §23-66-402.

General provisions, §§23-66-401 to 23-66-408.

Penalties, §23-66-408.

Practices required, §23-66-404.

Premiums, §23-66-405.

Receipts to payor, §23-66-405.

Private causes of action, §23-66-407.

Rules and regulations, §23-66-403.

Title, §23-66-408.

Violations, §23-66-408.

INSURANCE —Cont'd**Hospitals.**

Hospital and medical service corporations, §§23-75-101 to 23-75-122.

See HOSPITAL AND MEDICAL SERVICE CORPORATIONS.

Husband and wife.

Group and blanket health insurance.

Continuation of coverage upon change in marital status, §23-86-114.

Policies.

Married woman's right to insure husband's life, §23-79-128.

Immunity.

Commissioner.

Examination of insurers, §23-61-208.

Direct action, §23-79-210.

Fraudulent insurance acts prevention, §23-66-506.

Life and health insurance guaranty association, §23-96-108.

Risk-sharing plans for property and casualty insurance.

Commissioner, representatives or any plan, its participants or employees, §23-95-107.

Unfair competition and trade practices.

Persons attending or testifying at hearings, §23-66-214.

Improvement districts.

Investments.

Obligations of improvement districts, §23-63-810.

Income withholding.

Minimum basic benefit policies.

Payroll deduction, §23-98-108.

Indemnification.

Reciprocal insurers, §§23-70-101 to 23-70-124.

See RECIPROCAL INSURERS.

Use of credit information for personal insurance.

Holding agents harmless against liability, §23-67-410.

Industrial life insurance, §§23-82-101 to 23-82-118.

See LIFE INSURANCE.

Industrial loan institutions.

Loans insured by federal government, §23-36-110.

Injunctions.

Delinquency proceedings, §23-68-105.

Health insurance.

Primary eye care providers.

Remedies for violations, §23-99-305.

INSURANCE —Cont'd**Injunctions —Cont'd**

Holding companies.

Mutual insurance holding companies, §23-69-321.

Violations of provisions, §23-63-521.

Risk retention and purchasing groups.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in, §23-94-214.

Insolvency.

Life and health insurance guaranty association.

Insolvent insurers, §23-96-111.

Authority of association, §23-96-113.

Detection and prevention of impairments, §23-96-117.

Distributions of ownership rights, §23-96-119.

Mutual assessment life and disability insurers, §23-72-121.

Stipulated premium insurers, §23-71-113.

Installment contracts.

Creditor-placed insurance, §§23-101-101 to 23-101-114.

See CREDITOR-PLACED INSURANCE.

Insurance consultants.

Defined, §23-64-102.

Licenses.

Applications, §23-64-204.

Contents, §23-64-214.

Continuance of license, §23-64-215.

Examinations, §23-64-205.

Issuance, §23-64-214.

Partnerships, limited partnerships, joint ventures, limited liability companies, and corporations, §23-64-210.

Required, §23-64-201.

Scope of license, §23-64-207.

Insurance department with trust fund.

Administrative and regulatory fees, §23-61-706.

Audit of state warrants, §23-61-710.

Citation of act, §23-61-701.

Commissioner.

Duties, §23-61-709.

Powers, §23-61-709.

Commissioner's waiver for impaired insurers, §23-61-704.

Creation, §23-61-702.

Deposits, §23-61-705.

INSURANCE —Cont'd**Insurance department with trust fund —Cont'd**

Expense appropriations, §23-61-702.
Fees.

Additional fees, §23-61-711.

Administrative and financial
regulation fees, §23-61-703.

Agents on inactive license status,
§23-61-707.

Department products enumerated,
§23-61-708.

Department services enumerated,
§23-61-708.

Exceptions, §23-61-711.

General provisions, §§23-61-701 to
23-61-711.

Insurance department vouchers,
§23-61-710.

Insurers, §23-61-703.

Insurers' payment extensions,
§23-61-704.

Insurers' regulation fees, §23-61-705.

Licensees, §23-61-706.

Licenses.

Agents on inactive status.

Fees, §23-61-707.

Penalties for noncompliance,
§23-61-704.

Reinsurers, §23-61-703.

Title of act, §23-61-701.

Intervention.

Unfair competition and trade
practices.

Judicial review by intervenor,
§23-66-213.

Investigations.

Insurance fraud investigation division,
§§23-100-101 to 23-100-107.

Investments.

Burial associations.

Collections, §23-78-122.

Insurance companies, §§23-63-801 to
23-63-840.

See **INSURANCE COMPANIES.**

In vitro fertilization.

Group and blanket health insurance.

Coverage required, §23-86-118.

Health insurance.

Coverage required, §23-85-137.

Judgments.

Foreign decrees.

Enforcement, §23-61-111.

Reciprocal insurers, §23-70-111.

Subscribers' liability on judgment,
§23-70-117.

Jurisdiction.

Delinquency proceedings, §23-68-103.

INSURANCE —Cont'd**Jurisdiction —Cont'd**

Holding companies.

Control of or merger with domestic
insurer.

Jurisdiction of courts, §23-63-512.

Large commercial risks.

Content requirements for policies in
general inapplicable, §23-79-112.

Exemption from filing and approval of
policy form requirements,
§23-79-109.

Renewal by certificate, inapplicability,
§23-79-123.

Legal insurance, §§23-91-201 to
23-91-227.

See **ATTORNEYS AT LAW.**

Liabilities.

Assets.

Deductions from liabilities,
§23-63-602.

Casualty insurance.

Tort liability.

Retention, §23-89-206.

Civil liability.

Absence of fraud or bad faith,
§23-60-111.

Domestic stock and mutual insurers.

Contingent liability of nonlife
mutual members, §23-69-124.

Enforcement, §23-69-124.

Stockholders, §23-69-133.

Generally, §23-63-604.

Life insurance.

Limitation, §23-81-115.

Mutual assessment life and disability
insurers.

Officers and members not
individually liable, §23-72-122.

Property and casualty insurance
guaranty.

Insurers, §23-90-120.

Reciprocal insurers.

Aggregate liability, §23-70-119.

Subscribers liability, §23-70-117.

Risk retention and purchasing groups,
§§23-94-201 to 23-94-215.

See **RISK RETENTION AND
PURCHASING GROUPS.**

Risk-sharing plans for property and
casualty insurance.

Immunity.

Commissioner, representative or
plan or its participants,
§23-95-107.

Rural risk underwriting association.

Liability of participants in plan,
§23-88-307.

INSURANCE —Cont'd**Liabilities —Cont'd**

- Stipulated premium insurers,
§23-71-111.
- Personal liability of officers,
directors, stockholders or
employees, §23-71-114.

Liability insurance.

- Motor vehicles.
- See MOTOR VEHICLE
INSURANCE.

Licenses.

- Adjusters.
 - Contents, §23-64-214.
 - Continuance of license, §23-64-215.
 - Issuance, §23-64-214.
 - Partnerships, limited partnerships,
joint ventures, limited liability
companies, and corporations,
§23-64-210.
 - Probationary status, §23-64-216.
 - Qualifications, §23-64-209.
 - Required, §23-64-201.
- Agents.
 - Broker and agent license
combinations, §23-64-224.
 - Display of license, §23-64-220.
 - Probationary status, §23-64-216.
 - Renewal of policies after
termination, §23-64-230.
 - Risk retention and purchasing
groups, §§23-94-211, 23-94-213.
 - Title insurance, §§23-103-101 to
23-103-316.
 - See TITLE INSURANCE.
 - Vending machines, §23-64-221.
- Bonds, surety.
 - Brokers, §23-64-208.
- Brokers.
 - Agent and broker license
combinations, §23-64-224.
 - Bonds, surety, §23-64-208.
 - Display of license, §23-64-220.
 - Probationary status, §23-64-216.
 - Risk retention and purchasing
groups, §§23-94-211, 23-94-213.
 - Scope of broker's license, §23-64-207.
 - Surplus lines, §23-65-308.
 - Suspension, revocation or refusal of
license.
 - Surplus lines, §23-65-317.
 - Change of address of licensee.
 - Notification to commissioner,
§23-64-214.
 - Default by insurance producer,
§23-64-232.
 - Emergency suspension, §23-64-203.

INSURANCE —Cont'd**Licenses —Cont'd**

- Examinations, §§23-64-202, 23-64-203,
23-64-205.
- Fiduciary duties of licensees,
§23-64-223.
- Holding companies.
 - Revocation, suspension or
nonrenewal of insurer's license,
§23-63-524.
- Insurance consultants.
 - Applications, §23-64-204.
 - Contents, §23-64-214.
 - Continuance of license, §23-64-215.
 - Examinations, §23-64-205.
 - Issuance, §23-64-214.
 - Partnerships, limited partnerships,
joint ventures, limited liability
companies, and corporations,
§23-64-210.
 - Required, §23-64-201.
 - Scope of license, §23-64-207.
- Insurance producers, §§23-64-501 to
23-64-519.
 - Application for examination,
§23-64-505.
 - Application for license, §23-64-506.
 - Appointments, §23-64-514.
 - Assumed names, §23-64-510.
 - Citation of act, §23-64-501.
 - Commissions, §23-64-513.
 - Contents of license, §23-64-507.
 - Definitions, §23-64-502.
 - Denial of license, §23-64-512.
 - Exceptions to requirement,
§23-64-504.
 - Exemptions from examination,
§23-64-509.
 - Issuance of license, §23-64-507.
 - Lines of authority, §23-64-507.
 - Nonresidents, §23-64-508.
 - Reciprocity, §23-64-516.
 - Purpose of act, §23-64-501.
 - Reciprocity, §23-64-516.
 - Registry, §23-64-519.
 - Renewal, §23-64-507.
 - Refusal to renew, §23-64-512.
 - Reports to commissioner,
§23-64-517.
 - Required, §23-64-503.
 - Revocation, §23-64-512.
 - Rules and regulations, §23-64-518.
 - Scope of act, §23-64-501.
 - Temporary licensing, §23-64-511.
 - Termination.
 - Notice to commissioner,
§23-64-515.
 - Title of act, §23-64-501.

INSURANCE —Cont'd**Licenses —Cont'd**

Life insurance.

Contracts.

Variable contracts.

Licensure requirements,
§23-81-404.

Material transactions disclosures.

Revocation or suspension of
insurer's license, §23-63-1406.

Nonresident licensees.

Service of process.

Appointment of commissioner as
agent for, §23-64-227.

Probationary status, §23-64-216.

Qualifications, §23-64-202.

Adjusters license, §23-64-209.

Rates and charges.

Advisory organizations, §23-67-214.

Return of license to commissioner,
§23-64-218.

Revocation, §23-64-216.

Procedure following, §23-64-217.

Return of license to commissioner,
§23-64-218.

Risk-based capital act.

Violation of provisions.

Revocation or suspension of
insurer's license, §23-63-1314.

Risk retention and purchasing groups.

Agents or brokers, §§23-94-211,
23-94-213.

Suspension, §23-64-216.

Emergency suspension, §23-64-203.

Procedure following, §23-64-217.

Return of license to commissioner,
§23-64-218.

Terminated producers.

Settlement with, §23-64-231.

Title insurance.

Agents, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

**Life and health insurance guaranty
association, §§23-96-101 to
23-96-121.**

See LIFE INSURANCE.

Life insurance.

See LIFE INSURANCE.

Limitation of actions.

Policies.

Suits against insurers, §23-79-202.

Limit of risk, §23-63-701.**Liquidation.**

Ancillary liquidation.

Grounds.

Foreign insurers, §23-68-109.

Appeals, §23-68-103.

INSURANCE —Cont'd**Liquidation —Cont'd**

Assessments.

Notice, §23-68-132.

Order and levy of assessment,
§23-68-131.

Prima facie correct, §23-68-132.

Proceedings to collect, §23-68-132.

Report and petition for assessment,
§23-68-130.

Assets.

Borrowing on pledge, §23-68-123.

Attachment of assets, §23-68-120.

Borrowing on pledge of assets,
§23-68-123.

Claims.

Allowance of certain claims,
§23-68-128.Foreign insurance companies,
§23-68-117.

Form, §23-68-118.

Hearings, §23-68-118.

Nonresidents' claims against
domestic insurers, §23-68-116.

Notice, §23-68-118.

Priority of certain claims,
§§23-68-119, 23-68-126.

Legislative intent, §23-68-134.

Time to file, §23-68-129.

Commencement of delinquency
proceedings, §23-68-104.

Companies.

Order of liquidation, §23-68-111.

Conduct of delinquency proceedings
against domestic and alien
insurers, §23-68-113.Date rights fixed on liquidation,
§23-68-124.

Definitions, §23-68-102.

Deposits.

Money collected, §23-68-121.

Domestic insurance companies.

Claims of nonresidents, §23-68-116.

Conduct of delinquency proceedings
against, §23-68-113.

Funds.

Deposit and use, §23-68-114.

Source, §23-68-114.

Mutual member's share of assets on
liquidation, §23-69-155.

Order of liquidation, §23-68-111.

Exemption from fees, §23-68-122.

Fees.

Exemptions, §23-68-122.

Foreign insurance companies.

Ancillary liquidation.

Grounds, §23-68-109.

Order, §23-68-112.

INSURANCE —Cont'd**Liquidation —Cont'd**

Foreign insurance companies —Cont'd

Claims against foreign insurers,
§23-68-117.Conduct of delinquency proceedings
against, §23-68-115.

Order of liquidation, §23-68-111.

Funds.

Deposit and use, §23-68-114.

Garnishment of assets, §23-68-120.

Grounds for liquidation, §23-68-107.

Injunctions, §23-68-105.

Jurisdiction of delinquency
proceedings, §23-68-103.**Notice.**

Assessments, §23-68-132.

Claims, §23-68-118.

Offsets, §23-68-127.

Order of liquidation, §23-68-111.

Alien insurers, §23-68-111.

Ancillary liquidation, §23-68-112.

Protected cell companies, §23-63-1707.

Reinsurer's liability, §23-68-133.

Remedies.

Exclusiveness, §23-68-103.

Reports.

Assessments, §23-68-130.

Transfers.

Voidable transfers, §23-68-125.

Uniform insurers liquidation act,
§23-68-101.Venue of delinquency proceedings,
§23-68-103.

Change of venue, §23-68-103.

Voidable transfers, §23-68-125.

Loans.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.Insurance sales consumer protection
act, §§23-66-601 to 23-66-609.**Investments.**

Collateral loans, §23-63-822.

Policy loans, §23-63-821.

Savings and loan associations,
§23-63-823.

United States loans, §23-63-807.

Life insurance.

Policy loans, §23-81-109.

Indebtedness deducted from
proceeds, §23-81-117.

Interest rate, §23-81-109.

Reinstatement provisions,
§23-81-111.

Table of installments, §23-81-110.

INSURANCE —Cont'd**Local governments.**Direct actions against insurer,
§23-79-210.**Long-term care insurance,**

§§23-97-201 to 23-97-213.

See LONG-TERM CARE

INSURANCE.

Long-term care provider**professional liability insurance,**

§§23-91-301 to 23-91-309.

See LONG-TERM CARE PROVIDER
PROFESSIONAL LIABILITY
INSURANCE.**Losses.**

Health insurance.

Proof of loss, §23-85-112.

Mail.

Holding companies.

Control of or merger with domestic
insurer.

Mailings generally, §23-63-511.

Major medical benefits coverage.

Individual health insurance policies.

Renewal of policy, exceptions,
§23-79-119.**Mammograms.**Coverage for mammogram screening of
occult breast cancer, §23-79-140.

Definitions, §23-79-140.

Diagnostic mammography.

Defined, §23-79-140.

Screening mammography.

Defined, §23-79-140.

Managing general agents.

Citation of act, §23-64-401.

Contract provisions.

Requirements, §23-64-404.

Definitions, §23-64-402.

Duties of insurers, §23-64-405.

Examinations, §23-64-406.

General provisions, §§23-64-401 to
23-64-408.Independent financial examination,
§23-64-405.**Licensure.**

Bonds, §23-64-403.

Generally, §23-64-403.

Penalties, §23-64-407.

Representative capacity, §23-64-406.

Rules and regulations, §23-64-408.

Title of act, §23-64-401.

Mandamus.

Holding companies.

Acts or determinations of
commissioner, §23-63-519.**Marine insurance.**

Defined, §23-62-107.

INSURANCE —Cont'd**Material transactions disclosures,**

§§23-63-1401 to 23-63-1406.

Appeals.

Penalties for violations, §23-63-1406.

Asset acquisition or disposition,
§23-63-1403.**Ceded reinsurance agreements.**Nonrenewals, cancellations or
revisions, §23-63-1404.**Citation of act.**

Short title, §23-63-1401.

Fines for violations, §23-63-1406.

Nonrenewal, cancellation or revision of
ceded reinsurance agreements,
§23-63-1404.

Penalties for violations, §23-63-1406.

Reports, §23-63-1402.

Revocation of insurer's license,
§23-63-1406.

Rules and regulations, §23-63-1405.

Short title, §23-63-1401.

Suspension of insurer's license,
§23-63-1406.

Violations of provisions, §23-63-1406.

Medical service corporations,

§§23-75-101 to 23-75-122.

See HOSPITAL AND MEDICAL
SERVICE CORPORATIONS.**Medical transportation services.**

Direct reimbursement, §23-79-148.

Medicare.

See MEDICARE.

Meetings.

Domestic stock and mutual insurers.

Stockholders, §23-69-120.

Mental health.

Group and blanket health insurance.

Minimum benefits, §23-86-113.

Health insurance policies.

Age requirement, §23-85-131.

Required coverage, §§23-99-501 to
23-99-511.Psychological examiner coverage,
§23-79-142.**Mergers.**Acquisitions involving insurers not
otherwise covered.Applicability of provisions,
§23-63-525.Inapplicable provisions,
§23-63-530.

Competitive standard, §23-63-528.

Definitions, §23-63-525.

Orders and penalties, §23-63-529.

Preacquisition notification,
§23-63-527.

Waiting period, §23-63-527.

Captive insurance companies,
§23-63-1619.**INSURANCE —Cont'd****Mergers —Cont'd**

Domestic stock and mutual insurers.

Acquiring corporations under a plan
of exchange, §23-69-147.

Effect, §23-69-145.

Exchange of stock of stock insurers,
§23-69-142.Effect of exchange under plan,
§23-69-146.

Mutual insurers, §23-69-143.

Nonconsenting stockholders,
§23-69-148.Plan of exchange of shares
agreement, §23-69-144.**Holding companies.**Control of or merger with domestic
insurer, §§23-63-506 to
23-63-513.Approval by commissioner,
§23-63-510.

Exceptions, §23-63-507.

Filing requirements, §23-63-506.

Alternative filing materials,
§23-63-509.Content of statement,
§23-63-508.

Jurisdiction, §23-63-512.

Mailings, §23-63-511.

Service of process, §23-63-512.

Violations, §23-63-513.

Mutual insurance holding
companies, §23-69-313.Mutual assessment life and disability
insurers.Bulk reinsurance or merger or
conversion, §23-72-119.

Reciprocal insurers, §23-70-123.

Stipulated premium insurers,
§23-71-115.**Minimum basic benefit policies.**

Applicability of provisions, §23-98-105.

Benefits, §23-98-106.

Commissioner.Approval of forms and rates,
§23-98-110.

Defined, §23-98-102.

Rules and regulations.

Notice and hearing before
adoption, §23-98-103.**Cost control.**Managed care and cost control
provisions, §23-98-109.

Coverage, §23-98-106.

Disclosure requirements, §23-98-107.

Definitions, §23-98-102.

Disclosure requirements, §23-98-107.

Findings of legislature, §23-98-101.

INSURANCE —Cont'd**Minimum basic benefit policies**

—Cont'd

Forms.

Approval, §23-98-110.

Issuance authorized, §23-98-105.

Disclosure requirements, §23-98-107.

Legislative findings, §23-98-101.

Managed care and cost control provisions, §23-98-109.

Newborn infants.

Coverage, §23-98-106.

Notice, §23-98-108.

Payroll deductions, §23-98-108.

Premiums.

Approval of rates, §23-98-110.

Records.

Requirements for insurers, §23-98-111.

Reports.

Requirements for insurers, §23-98-111.

Rules and regulations.

Notices and hearing before adoption, §23-98-103.

Trusts.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

Minors.

Adopted minors.

Health insurance.

Coverage for adopted minors, §23-79-137.

Children's preventive health care act, §23-79-141.

Benefits, §23-79-141.

Coverage, §23-79-141.

Definitions, §23-79-141.

Periodic physical examination.

Coverage for, §23-79-141.

Defined, §23-79-141.

Policies, contracts, certificates or plans.

Required provisions, §23-79-141.

Coverage of newborn infants included in all policies covering insured's family, §23-79-129.

Effective date of coverage, §23-79-129.

Minimum basic benefit policies, §23-98-106.

Group and blanket disability insurance.

Coverage.

Denial or restriction of coverage.

Certain policy provisions void, §23-79-144.

INSURANCE —Cont'd**Minors —Cont'd**

Group and blanket health insurance.

Payment of benefits, §23-86-104.

Health care coverage.

Denial or restriction of coverage.

Certain policy provisions void, §23-79-144.

Policies.

Coverage of newborn infants included in all policies covering insured's family, §23-79-129.

Effective date of coverage, §23-79-129.

Minimum basic benefit policies, §23-98-106.

Misdemeanors.

Amusement ride and amusement attraction safety insurance.

Operation without safety inspection and insurance, §23-89-504.

Unfair competition and trade practices.

Violations of various provisions, §23-66-307.

Misrepresentation.

Policies.

Recovery under policy or contract, §23-79-107.

Mortgages and deeds of trust.

Investments, §§23-63-826, 23-63-827.

Motor carriers.

Leased motor vehicles.

Cancellation or termination of insurance policies on.

Notice, §23-13-104.

Uninsured motorist liability insurance.

General provisions, §§23-16-301 to 23-16-304.

See CARRIERS.

Motor vehicles.

Bodily injury minimum coverage limits, §23-89-403.

Casualty insurance.

Generally.

See CASUALTY INSURANCE.

Extraterritorial provisions.

Liability insurance coverage, §23-89-212.

Commercial lines, §23-79-311.

General provisions.

See MOTOR VEHICLE INSURANCE.

Liability insurance.

General provisions.

See MOTOR VEHICLE INSURANCE.

INSURANCE —Cont'd**Motor vehicles —Cont'd**

Premiums.

Delinquencies, §23-89-213.

Safety responsibility.

See MOTOR VEHICLE
INSURANCE.

Stepdowns.

Prohibited, §23-89-214.

Commercial lines, §23-79-312.

Total loss settlements, §23-89-211.

Underinsured motorists, §23-89-209.

Uninsured motorists.

Casualty insurance.

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.Subrogation of insurer making
payment, §23-89-405.

Safety responsibility generally.

See MOTOR VEHICLE
INSURANCE.**Multiple employer trust and
self-insured plans.**

Bonds, surety.

Amount, §23-92-204.

Cancellation, §23-92-204.

Required, §23-92-204.

Definitions, §23-92-201.

Records.

Access, §23-92-207.

Confidential information,
§23-92-207.

Maintenance, §23-92-207.

Registration.

Bonds, surety, §23-92-204.

Certificate of registration.

Application, §23-92-203.

Issuance, §23-92-203.

Renewal, §23-92-203.

Required, §23-92-203.

Suspension or revocation,
§23-92-203.

Required, §23-92-101.

Time for registration, §23-92-101.

Third party administrator.

Collections by, §23-92-206.

Compensation, §23-92-208.

Defined, §23-92-201.

Deposits and withdrawals,
§23-92-206.

Fiduciary capacity, §23-92-206.

INSURANCE —Cont'd**Multiple employer trust and
self-insured plans —Cont'd**

Third party administrator —Cont'd

Payment of claims and return of
premiums.

Presumptions, §23-92-205.

Payments of premiums to.

Presumptions, §23-92-205.

Updating of lists of trusts and plans,
§23-92-203.Written agreement required,
§23-92-202.**Municipal corporations.**Direct action against insurer,
§23-79-210.**Mutual aid associations.**Farmers' mutual aid associations,
§§23-73-101 to 23-73-123.See FARMERS' MUTUAL AID
ASSOCIATIONS.**Mutual assessment life and
disability insurers, §§23-72-101 to
23-72-122.**See MUTUAL ASSESSMENT LIFE
AND DISABILITY INSURERS.**Mutual insurance holding
companies, §§23-69-301 to
23-69-323.**See HOLDING COMPANIES,
INSURANCE.**Mutual insurers.**Domestic stock and mutual insurers,
§§23-69-101 to 23-69-156.See DOMESTIC STOCK AND
MUTUAL INSURERS.**Names.**

Captive insurance companies.

Deceptively similar names,
§23-63-1603.

Companies.

Foreign state or country.

Unjustified refusal to permit
business because of similar
name.

Retaliation, §23-63-103.

Name of insurer, §23-63-203.

Insurance producers.

Assumed names, §23-64-510.

Reciprocal insurers.

Actions.

Name used in suits, §23-70-104.

Stipulated premium insurers.

Use of name, §23-71-106.

Unfair competition and trade
practices.

Fictitious groups, §23-66-304.

INSURANCE —Cont'd**Natural causes.**

Cancellation or denial of renewal of policy.

Prohibited grounds, §23-63-109.

Newborn infants.**Policies.**

Coverage included in all policies covering insured's family, §23-79-129.

Certain coverage required for approval by commissioner, §23-79-129.

Minimum basic benefit policies, §23-98-106.

No-fault insurance.

First party coverage.

Required coverage, §23-89-202.

Nonforfeiture provisions.

Life insurance, §§23-81-201 to 23-81-213.

See LIFE INSURANCE.

Nonpayment of claims.

Penalty for failure to pay promptly, §23-63-107.

Nonprofit corporations.

Direct actions against insurer, §23-79-210.

Notice.

Cancellation of policies.

Notice of intention to cancel, §23-66-319.

Casualty insurance.

Cancellation of policies, §§23-89-304, 23-89-306.

Nonrenewal of policies, §§23-89-305, 23-89-306.

Certificates of authority.

Revocation or suspension, §23-63-214.

Commissioner.

Entering orders and notices, §23-61-109.

Hearings, §23-61-304.

Delinquency proceedings.

Assessments, §23-68-132.

Claims, §23-68-118.

Health insurance.

Claims, notice of, §23-85-110.

Holding companies.

Control of or merger with domestic insurer.

Hearing, §23-63-510.

Mailing, §23-63-511.

Insurance producers.

Termination.

Notice to commissioner, §23-64-515.

INSURANCE —Cont'd**Notice —Cont'd**

Minimum basic benefit policies, §23-98-108.

Mutual assessment life and disability insurers.

Claims.

Members to be notified if claims scaled, §23-72-115.

Policies.

Commercial property and casualty insurance policies.

Violations of subchapter, §23-79-305.

Premiums.

Commercial property and casualty insurance policies.

Increase of premiums, §23-79-307.

Liability policies.

Increase, §23-79-151.

Property and casualty insurance guaranty.

Claims.

Insureds to be notified, §23-90-111.

Reinsurance, §23-62-205.

Risk retention and purchasing groups.

Foreign risk retention groups.

Notice to purchasers, §23-94-205.

Purchasing groups.

Requirements, §23-94-208.

Use of credit information in personal insurance.

Adverse agency notification, §23-67-408.

Sample disclosure statement, §23-67-407.

Oaths.

Burial associations.

Board.

Oath of office, §23-78-105.

Fees.

Oath at payment, §23-78-111.

Commissioner, §23-61-102.

Offsets.

Rehabilitation, §23-68-127.

Particular provisions prevail,

§23-60-105.

Payment of claims.

Prompt processing by insurer, §23-63-107.

Penalties.

Acquisitions involving insurers not otherwise covered.

Orders and penalties, §23-63-529.

Amusement ride and amusement attraction safety insurance.

Operation without safety inspection and insurance, §23-89-504.

INSURANCE —Cont'd**Penalties —Cont'd**

- Claims not paid promptly, §23-63-107.
- Credit life and disability insurance.
 - Violations, §23-87-106.
- Domestic stock and mutual insurers.
 - Illegal dividends, §23-69-131.
 - Proxies.
 - Corrupt practices, §23-69-123.
 - Records.
 - Unlawful removal, §23-69-134.
- False or misleading statements, §23-60-109.
- Fraudulent insurance acts, §23-66-512.
- General penalty, §23-60-108.
- Health insurance.
 - Health care providers.
 - Civil penalties for violations, §23-99-207.
- Material transactions disclosures, §23-63-1406.
- Policies.
 - Commercial property and casualty insurance policies.
 - Violations of subchapter, §23-79-305.
- Rates and rating organizations.
 - Violations, §23-67-205.
- Risk retention and purchasing groups.
 - Foreign risk retention groups, §23-94-205.
- Unfair competition and trade practices.
 - False representations, §23-66-302.
 - Violation of cease and desist orders, §23-66-211.

Personal property.

- Domestic stock and mutual insurers.
 - Taxation.
 - Situs of personal property for taxation, §23-69-136.

Petitions.

- Delinquency proceedings.
 - Report and petition for assessment, §23-68-130.

Policies.

- Accident and sickness insurance.
 - Health insurance generally.
 - See HEALTH INSURANCE.

Actions.

- Attorney's fees.
 - Allowance of fees in suits to terminate, modify or reinstate policy, §23-79-209.
 - Suits against insurers, §23-79-209.
- Limitation of actions, §23-79-202.

INSURANCE —Cont'd**Policies —Cont'd****Actions —Cont'd**

- Suits against insurers, §23-79-202.
 - Automobile liability insurers.
 - Power to sue certain insurers, §23-79-201.
 - Damages and attorney's fees on loss claims, §23-79-208.
 - Disclosure upon request of person injured or damaged, §23-79-210.
 - Evidence of death of person in military service, §23-79-206.
 - Liability insurer may be sued direct where insured not subject to suit for tort, §23-79-210.
 - Part of policy, §23-79-210.
 - Purpose of law, §23-79-210.
 - Service of process, §23-79-205.
 - Substantial compliance as to fire insurance of personal property, §23-79-207.
 - Trial by jury, §23-79-203.
 - Venue, §23-79-204.

Agents.

- Information about agents to be contained on policy, §23-79-138.

Annuities.

- Assignability of rights, §23-79-134.
- Contestability, §23-81-123.
- Dividends, §23-81-126.
- Entire contract provisions, §23-81-124.
- Exemption of proceeds, §23-79-134.
- Grace period, §23-81-122.
- Incontestability, §23-81-123.
- Misstatement of age, §23-81-125.
- Reinstatement, §23-81-127.
- Standard provisions, §23-81-121.
 - Annuity and pure endowment contracts, §23-81-121.
- Reversionary annuities, §23-81-128.

Appeals.

- Commercial property and casualty insurance policies.
 - Appeals from orders of commissioner, §23-79-309.
- Applicant's credit history, §23-66-317.

Applications.

- Alteration, §23-79-106.
- Evidence, §23-79-106.
- Filing, §23-79-109.
- Forms, §23-79-109.
- Grounds for disapproval, §23-79-110.

INSURANCE —Cont'd**Policies —Cont'd****Applications —Cont'd**

Rejection.

Return of premium to rejected applicant, §23-79-108.

Representations in applications, §23-79-107.

Required, §23-79-105.

Warranties.

Statements in applications deemed representations and not warranties, §23-79-107.

Assignment, §23-79-124.

Binders, §23-79-120.

Bylaw provisions, §23-79-113.

Cancellation of policies or contracts.

Prohibited grounds, §23-63-110.

Casualty insurance.

Cancellation, §§23-89-301, 23-89-303 to 23-89-308.

Grounds, §23-89-303.

No liability or cause of action against persons for information or statements relating to cancellation, §23-89-308.

Proof of mailing of notices, §23-89-306.

Time for notice, §23-89-304.

Definitions, §23-89-301.

First party coverage.

Required coverage, §23-89-202.

Grounds for cancellation of policy, §23-89-303.

Nonrenewal.

No liability or cause of action against persons for information or statements relating to cancellation or nonrenewal of policies, §23-89-308.

Notice, §23-89-305.

Proof of mailing of notices, §23-89-306.

Statement of grounds for nonrenewal, §23-89-305.

Passengers.

Coverage for passengers and others not occupying another vehicle, §23-89-204.

Rejection of coverage, §23-89-203.

Charter provisions, §23-79-113.

Children's preventive health care act.

Required provisions, §23-79-141.

Claims.

Administration not waiver, §23-79-127.

INSURANCE —Cont'd**Policies —Cont'd****Claims —Cont'd**

Health, medical or surgical plan or accident claims of \$300 or less.

Nonpayment.

Penalty for late or nonpayment of claim, §23-79-135.

Claims or loss histories, §23-66-318.

Combination policies, §23-79-117.

Commercial property and casualty insurance policies.

Minimum standards.

Administrative procedures, §23-79-309.

Appeals.

Orders of commissioner, §23-79-309.

Applicability of subchapter, §23-79-303.

Cancellation.

Extended reporting period provided at no additional charge, §23-79-306.

Certificate of authority.

Revocation or suspension for violation of subchapter, §23-79-305.

Claims-made policy.

Content requirements, §23-79-306.

Defined, §23-79-302.

Construction and interpretation.

Applied in accordance with provisions of subchapter, §23-79-308.

Effect of subchapter upon prior law, §23-79-304.

Definitions.

Claims-made policy, §23-79-302.

Exceptions to subchapter, §23-79-303.

Fire law.

Effect of subchapter upon, §23-79-304.

Hearings.

Violations of subchapter, §23-79-305.

Intent of subchapter, §23-79-301.

Limitation of liability.

Standards policies required to meet, §23-79-307.

Notice.

Violations of subchapter, §23-79-305.

Orders.

Violations of subchapter, §23-79-305.

INSURANCE —Cont'd**Policies —Cont'd**

- Commercial property and casualty insurance policies —Cont'd
- Minimum standards —Cont'd
 - Penalties.
 - Violations of subchapter, §23-79-305.
 - Purposes of subchapter, §23-79-301.
 - Reporting period.
 - Extended reporting period upon cancellation or termination, §23-79-306.
 - Rules and regulations.
 - Promulgation, §23-79-310.
 - Standards policies required to meet, §23-79-307.
 - Termination.
 - Extended reporting period provided at no additional charge, §23-79-306.
 - Violations of subchapter.
 - Statement of alleged violations, §23-79-305.
- Motor vehicle coverage.
 - Extraterritorial provisions, §23-79-311.
 - Stepdowns, §23-79-312.
- Punitive damages exclusion, §23-79-307.
- Renewal, §23-79-307.
- Companies.
 - Information about companies to be contained on policy, §23-79-138.
- Concealment of facts.
 - Recovery under policy or contract, §23-79-107.
- Construction and interpretation.
 - Commercial property and casualty insurance policies.
 - Construed and applied in accordance with subchapter, §23-79-308.
 - Effect of subchapter upon prior law, §23-79-304.
- Construction of policies, §23-79-119.
- Contents.
 - Generally, §§23-79-111, 23-79-112.
 - Required provisions, §23-79-112.
- Credit life and disability insurance.
 - Amounts of insurance authorized, §23-87-108.
- Certificates.
 - Delivery of policy or certificate, §23-87-111.
 - Disclosure of provisions to debtors, §23-87-110.

INSURANCE —Cont'd**Policies —Cont'd**

- Credit life and disability insurance —Cont'd
 - Compensation.
 - Limitations, §23-87-117.
 - Delivery, §23-87-111.
 - Enforcement of provisions, §23-87-118.
 - Existing insurance.
 - Choice of insurer, §23-87-116.
 - Forms.
 - Filing, approval and withdrawal, §23-87-112.
 - Issuance, §23-87-114.
 - Allowable forms, §23-87-107.
 - Penalties for violations, §23-87-106.
 - Premiums.
 - Schedules of premium rates, §23-87-113.
 - Provisions required.
 - Disclosure to debtors, §23-87-110.
 - Terms of insurance, §23-87-109.
- Definitions, §23-79-101.
 - Claims-made policy, §23-79-302.
 - Large commercial risks, §23-79-109.
 - Life and health insurance policy language simplification, §23-80-203.
- Delivery of policy, §23-79-121.
- Disability insurance.
 - Health insurance generally.
 - See HEALTH INSURANCE.
- Discharge.
 - Payment discharges insurer, §23-79-125.
- Domestic stock and mutual insurers.
 - Dividends to mutual policyholders, §23-69-130.
 - Issuance, §23-69-115.
 - Management and exclusive agency contracts, §23-69-137.
 - Nonassessable policies, §23-69-125.
 - Revocation of authority, §23-69-125.
- Entitlement notwithstanding policy provisions.
 - Health services performed by professionals not licensed under Arkansas medical practices act, §23-79-114.
 - Services performed by outpatient centers, §23-79-115.
- Execution of policies, §23-79-116.
- Construction of policies, §23-79-119.
- Expiration.
 - Renewal by certificate, §23-79-123.

INSURANCE —Cont'd**Policies —Cont'd**

- Farmers' mutual aid association.
- Management and exclusive agency contracts, §23-69-137.
- Fire insurance.
 - Valued policy law, §23-88-101.
- Forms.
 - Approval, §23-79-109.
 - Grounds for disapproval, §23-79-110.
 - Noncomplying forms.
 - Validity, §23-79-118.
 - Proof of loss forms.
 - Furnishing, §23-79-126.
- Group accident insurance.
 - Impairment of speech or hearing.
 - Hearing devices exempt from coverage, §23-79-130.
 - Offer of coverage, §23-79-130.
 - Rejection of coverage, §23-79-130.
 - Time for acceptance, §23-79-130.
- Health insurance.
 - Adopted minors.
 - Coverage for adopted minors, §23-79-137.
 - Applications, §23-79-105.
 - Exemption of proceeds, §23-79-133.
 - Generally.
 - See HEALTH INSURANCE.
 - Group and blanket health insurance.
 - See HEALTH INSURANCE.
- Hearings.
 - Commercial property and casualty insurance policies.
 - Violations of subchapter, §23-79-305.
- Husband and wife.
 - Married woman's right to insure husband's life, §23-79-128.
- Industrial life insurance.
 - Alteration.
 - Authority to alter contracts, §23-82-113.
 - Application of provisions to term and specified insurance, §23-82-103.
 - Applications.
 - Statements in application, §23-82-106.
 - Beneficiaries.
 - Designation, §23-82-114.
 - Cash surrender value, §23-82-110.
 - Contestability, §23-82-107.
 - Conversion, §23-82-116.
 - Dividends, §23-82-109.
 - Grace period, §23-82-105.
 - Incontestability, §23-82-107.

INSURANCE —Cont'd**Policies —Cont'd**

- Industrial life insurance —Cont'd
 - Misstatement of age, §23-82-108.
 - Nonforfeiture benefits, §23-82-110.
- Policies.
 - Offering, delivering or issuing for delivery.
 - Prohibited on or after January 1, 1988, §23-82-104.
- Premiums.
 - Direct payment, §23-82-115.
- Prohibited provisions, §23-82-118.
- Reinstatement, §23-82-111.
- Settlement, §23-82-112.
- Title, §23-82-117.
- Information to be contained, §23-79-138.
- Insurable interest.
 - Personal insurance, §23-79-103.
 - Property, §23-79-104.
- Investments.
 - Loans, §23-63-821.
- Large commercial risks.
 - Content requirements for policies in general inapplicable, §23-79-112.
 - Exemption from filing and approval of forms, §23-79-109.
 - Renewal by certificate, inapplicability, §23-79-123.
- Life and health insurance guaranty association.
 - Coverage, §23-96-107.
 - Termination.
 - Nonpayment of premiums, §23-96-120.
 - Reissuance of terminated coverage, §23-96-121.
- Notice to policyholder.
 - Disclaimer, §23-96-105.
 - Summary document describing general purpose and current limitations of chapter, §23-96-105.
- Reissuance.
 - Terminated coverage, §23-96-121.
- Life and health insurance policy simplification, §§23-80-201 to 23-79-208.
- Applicability of provisions, §23-80-204.
- Approval of forms, §23-80-208.
- Company.
 - Defined, §23-80-203.
- Construction of provisions, §23-80-205.
- Insurer.
 - Defined, §23-80-203.

INSURANCE —Cont'd**Policies —Cont'd**

- Life and health insurance policy simplification —Cont'd
- Policy.
 - Defined, §23-80-203.
- Policy form.
 - Approval of forms, §23-80-208.
 - Defined, §23-80-203.
- Readability standards, §23-80-206.
- Lower scores usable, §23-80-207.
- Life insurance.
 - Alterations.
 - Entire contract alterations, §23-81-106.
 - Applications, §23-79-105.
 - Certificates.
 - Commissioner's certificate on policy, §23-81-131.
 - Contestability, §23-81-105.
 - Dividends, §23-81-108.
 - Exceptions from Arkansas insurance code, §23-81-401.
 - Excluded or restricted coverage, §23-81-114.
 - Exemption of life insurance proceeds as to creditors, §23-79-131.
 - Grace period, §23-81-104.
 - Group life insurance.
 - Exemption of proceeds, §23-79-132.
 - Holding of proceeds, §23-81-116.
 - Incontestability, §23-81-105.
 - After reinstatement, §23-81-129.
 - Loans, §23-81-109.
 - Indebtedness deducted from proceeds, §23-81-117.
 - Interest rates, §23-81-109.
 - Reinstatement provisions, §23-81-111.
 - Table of installments, §23-81-110.
 - Married woman's right to insure husband's life, §23-79-128.
 - Misstatement of age, §23-81-107.
 - Mutilated policies, §23-81-133.
 - Registered policies, §23-81-130.
 - Registration, §23-81-132.
 - Reinstatement.
 - Incontestability after reinstatement, §23-81-129.
 - Reissuance, §23-81-133.
 - Reserves.
 - Maintenance of deposit, §23-81-134.
 - Restricted or excluded coverage, §23-81-114.

INSURANCE —Cont'd**Policies —Cont'd**

- Life insurance —Cont'd
 - Standard provisions, §23-81-103.
 - Surrendered policies, §23-81-133.
 - Title, §23-81-101.
 - Valuation, §23-81-132.
 - Variable contracts, §23-81-403.
 - Authority to regulate variable contracts, §23-81-405.
 - Licensure requirements for delivery of variable contracts, §23-81-404.
- Limitation of actions.
 - Suits against insurers, §23-79-202.
- Long-term care insurance.
 - Coverage.
 - General provisions, §23-97-208.
 - Preexisting conditions, §23-97-209.
 - Prior hospitalization or institutionalization.
 - Conditions of coverage, §23-97-210.
 - Defined, §23-97-203.
 - Free look, §23-97-213.
 - Preexisting conditions coverage, §23-97-209.
 - Prior hospitalization or institutionalization.
 - Conditions of coverage, §23-97-210.
 - Right to return, §23-97-213.
- Major medical benefits coverage, individual health insurance.
 - Renewal of policy, exceptions, §23-79-119.
- Medicare supplement insurance policies, §§23-79-401 to 23-79-410.
 - See MEDICARE.
- Minors.
 - Coverage of newborn infants included in all policies covering insured's family, §23-79-129.
 - Certain coverage required for approval by commissioner, §23-79-129.
 - Effective date of coverage, §23-79-129.
 - Minimum basic benefit policies, §23-98-106.
- Misrepresentations.
 - Recovery under policy or contract, §23-79-107.
- Mutual assessment life and disability insurers.
 - Minimum requirements, §23-72-104.

INSURANCE —Cont'd**Policies —Cont'd**

Newborn infants.

Coverage included in all policies covering insured's family, §23-79-129.

Certain coverage required for approval by commissioner, §23-79-129.

Effective date of coverage, §23-79-129.

Minimum basic benefit policies, §23-98-106.

Noncomplying forms.

Validity, §23-79-118.

Notice.

Commercial property and casualty insurance policies.

Violations of subchapter, §23-79-305.

Right to return policy or contract, §23-79-112.

Omissions.

Recovery under policy or contract, §23-79-107.

Payment discharges insurer, §23-79-125.

Penalties.

Commercial property and casualty insurance policies.

Violations of subchapter, §23-79-305.

Personal insurance.

Interest insurable, §23-79-103.

Premiums.

Contracts agreeing to invest premium for benefit of insured or certain class unlawful, §23-79-136.

Investment.

Benefit of insured.

Violations, §23-79-136.

Negotiation, §23-79-122.

Notes, §23-79-122.

Proof of loss forms.

Furnishing, §23-79-126.

Property.

Interest insurable, §23-79-104.

Property and casualty insurance guaranty.

Issuance.

New or renewal policies, §23-90-118.

Property and casualty insurance policy simplification, §§23-80-301 to 23-80-308.

See PROPERTY INSURANCE.

INSURANCE —Cont'd**Policies —Cont'd**

Property insurance.

Valued policy law, §23-88-101.

Reciprocal insurers.

Modifications, §23-70-109.

Nonassessable policies, §23-70-120.

Renewal.

Certificates, §23-79-123.

Rules of construction, §23-79-119.

Return of policy or contract.

Statement of right in policy or contract, §23-79-112.

Riders.

Construction of policies, §23-79-119.

Rules and regulations.

Commercial property and casualty insurance policies.

Promulgation, §23-79-310.

Rural risk underwriting association.

Appeals, §23-88-309.

Scope of chapter, §23-79-102.

Service of process.

Suits against insurers, §23-79-205.

Signature, §23-79-116.

Standard or uniform provisions, §23-79-111.

Standards.

Commercial property and casualty insurance policies.

Standards required to be met, §23-79-307.

Stipulated premium insurers.

Issuance, §23-71-111.

Use of name stipulated premium, §23-71-106.

Substance abuse coverage, §23-79-139.

Surety contracts, §§23-63-1001 to 23-63-1004.

Surplus lines.

Endorsement of contract, §23-65-307.

Validity of certain contracts, §23-65-304.

Telephone numbers.

Information to be included, §23-79-138.

Ten day right to return policy, notice in policy, §23-79-112.

Termination, modification or reinstatement of policies.

Allowance of attorney's fees in actions, §23-79-209.

Commercial property and casualty insurance policies.

Extended reporting period, §23-79-306.

Underwriters, §23-79-117.

INSURANCE —Cont'd**Policies —Cont'd**

- Unfair competition and trade practices.
- Charge for substitution of policy. Prohibited, §23-66-309.
- Overwriting contracts of life insurer, §23-66-313.
- Unlawful for agent to induce or solicit any insured to lapse, forfeit or surrender any insurance policy, §23-66-307.
- Venue.
- Suits against insurers, §23-79-204.
- Waiver.
- Claims administration not waiver, §23-79-127.

Powers of attorney.

- Reciprocal insurers, §23-70-108.

Premiums.

- Commercial property and casualty insurance policies.
- Increase of premiums.
- Notice, §23-79-307.
- Credit life and disability insurance.
- Schedule of premium rates, §23-87-113.
- Defined, §23-79-101.
- Domestic stock and mutual insurers.
- Trust deposit, §23-69-115.
- Group and blanket health insurance.
- Conversion policy, §23-86-115.
- Group annuities and group life insurance.
- Payment.
- Grace period, §23-83-110.
- Health insurance.
- Method of payment.
- Change, §23-85-139.
- Small employer health insurance purchasing groups, §23-86-510.
- Unearned premiums.
- Refund upon death of insured, §23-85-134.
- Unpaid premiums, §23-85-123.
- Increase.
- Notice required, §23-79-151.
- Prohibited grounds, §23-63-110.
- Industrial life insurance.
- Direct payment, §23-82-115.
- Life and health insurance guaranty association.
- Insolvent insurers.
- Premiums due after an order of liquidation, §23-96-120.
- Nonpayment of premiums.
- Effect, §23-96-120.

INSURANCE —Cont'd**Premiums —Cont'd**

- Life and health insurance guaranty association —Cont'd
- Reissuance of terminated coverage, §23-96-121.
- Life insurance.
- Claims.
- Premiums to accompany proceeds, §23-81-118.
- Construction of provisions, §23-81-118.
- Interest on premiums, §23-81-118.
- Nonforfeiture law.
- See LIFE INSURANCE.
- Payment, §23-81-112.
- Minimum basic benefit policies.
- Approval of rates, §23-98-110.
- Motor vehicle insurance.
- Delinquencies, §23-89-213.
- Mutual assessment life and disability insurers.
- Conversion to level premium plan, §23-72-118.
- Policies.
- Contracts agreeing to invest premium for benefit of insured or certain class unlawful, §23-79-136.
- Investment.
- Benefit of insured.
- Violations, §23-79-136.
- Negotiation, §23-79-122.
- Notes, §23-79-122.
- Rejection of application for insurance.
- Return of premium to rejected applicant, §23-79-108.
- Rural risk underwriting association.
- Net direct written premiums.
- Certification of aggregate by commissioners, §23-88-308.
- Defined, §23-88-302.
- Small employer health insurance.
- Base premium rate.
- Defined, §23-86-202.
- Index rate.
- Defined, §23-86-202.
- New business premium rate.
- Defined, §23-86-202.
- Rating period.
- Defined, §23-86-202.
- Restrictions as to rates, §23-86-204.
- Suspension of certain provisions.
- Discretion of commissioner, §23-86-208.
- Stipulated premium insurers, §23-71-101 to 23-71-116.
- See STIPULATED PREMIUM INSURERS.

INSURANCE —Cont'd**Premiums —Cont'd**

Surplus lines.

Unearned premiums.

Liability of insurer as to losses
and unearned premiums,
§23-65-312.Unfair competition and trade
practices.Illegal dealing in premiums,
§23-66-310.**Premium taxes.**Captive insurance companies,
§23-63-1614.Health maintenance organizations,
§23-76-131.Life and health insurance guaranty
association.

Member insurers.

Credits, §23-96-115.

Prepaid legal insurance, §§23-91-201
to 23-91-227.

See ATTORNEYS AT LAW.

Prescription drug benefits,

§23-79-149.

Uniformity of prescription drug cards,
§§23-80-401 to 23-80-409.See PRESCRIPTION DRUG CARD
UNIFORMITY.**Prescription medication for
treatment of cancer**, §23-79-147.**Privacy.**

Consumer protection.

Customer privacy, §23-66-607.

Privilege taxes.

Risk retention groups, §23-94-210.

Products liability.

Risk retention and purchasing groups,.

See RISK RETENTION AND
PURCHASING GROUPS.**Professional employer****organizations**, §§23-92-401 to
23-92-419.See PROFESSIONAL EMPLOYER
ORGANIZATIONS.**Property and casualty insurance
guaranty.**

See PROPERTY INSURANCE.

Property and casualty insurers.General provisions, §§23-63-1101 to
23-63-1107.

See PROPERTY INSURANCE.

Property insurance.Commercial property and casualty
insurance policies.Minimum standards, §§23-79-301 to
23-79-312. See within this
heading, "Policies."**INSURANCE —Cont'd****Property insurance —Cont'd**Creditor-placed insurance,
§§23-101-101 to 23-101-114.See CREDITOR-PLACED
INSURANCE.

General provisions.

See PROPERTY INSURANCE.

Property and casualty insurance.

Policy simplification.

See PROPERTY INSURANCE.

Protected cell company act,

§§23-63-1701 to 23-63-1709.

See INSURANCE COMPANIES.

Purchasing groups.Risk retention and purchasing groups,
§§23-94-201 to 23-94-215.See RISK RETENTION AND
PURCHASING GROUPS.**Railroads.**

Casualty insurance.

Railroad accidents not to be
considered in automobile
insurance, §23-89-302.Liability for injury or death of
employee.Contracts of indemnity insurance no
defense, §23-12-507.Special passenger excursion trains,
§23-10-213.**Reciprocal insurers**, §§23-70-101 to
23-70-124.

See RECIPROCAL INSURERS.

Reciprocity.

Health insurance, §23-85-129.

Insurance producers.

Licensing, §23-64-516.

Records.

Agents and brokers.

Keeping of records, §23-64-220.

Brokers.

Surplus lines, §23-65-313.

Burial associations.

Books and records.

Maintenance, §§23-78-117,
23-78-119.

Commissioner.

Certified copies and certificates,
§23-61-107.

Examinations, §23-61-204.

Keeping, §23-61-107.

Deposits, §23-63-905.

Liability of commissioner and state,
§23-63-905.

Domestic stock and mutual insurers.

Keeping of records required,
§23-69-134.

INSURANCE —Cont'd**Records —Cont'd**

- Holding companies.
 - Confidential treatment, §23-63-517.
- Life and health insurance guaranty association.
 - Open records, §23-96-109.
- Minimum basic benefit policies.
 - Requirements for insurers, §23-98-111.
- Rates and charges.
 - Filing, §23-67-218.
- Signatures.
 - Electronic, electronic facsimile-transmitted or computer-readable signatures, §23-61-107.
- Small employer health insurance.
 - Maintenance of records, §23-86-207.
- Surplus lines.
 - Brokers to keep records, §23-65-313.
 - Production on order, §23-65-104.

Registration.

- Risk retention and purchasing groups.
 - See RISK RETENTION AND PURCHASING GROUPS.

Rehabilitation.

- Appeals, §23-68-103.
- Assessments.
 - Notice, §23-68-132.
 - Order and levy, §23-68-131.
 - Payment, §23-68-132.
 - Prima facie correct, §23-68-132.
 - Proceedings to collect, §23-68-132.
 - Report and petition, §23-68-130.
- Assets.
 - Attachment and garnishment, §23-68-120.
 - Borrowing on pledge of assets, §23-68-123.
- Attachment of assets, §23-68-120.
- Claims.
 - Allowance of certain claims, §23-68-128.
 - Foreign insurance companies, §23-68-117.
 - Form, §23-68-118.
 - Hearings, §23-68-118.
 - Nonresident's claims against domestic insurers, §23-68-116.
 - Notice, §23-68-118.
 - Priority of certain claims, §23-68-119.
 - Priority of claims for compensation, §23-68-126.
 - Legislative intent, §23-68-134.
 - Time to file, §23-68-129.

INSURANCE —Cont'd**Rehabilitation —Cont'd**

- Commencement of delinquency proceedings, §23-68-104.
- Companies.
 - Claims of nonresidents against domestic insurers, §23-68-116.
 - Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.
- Funds.
 - Deposit and use, §23-68-114.
 - Source, §23-68-114.
- Conduct of delinquency proceedings against domestic and alien insurers, §§23-68-113, 23-68-115.
- Definitions, §23-68-102.
- Deposits.
 - Moneys collected, §23-68-121.
- Domestic insurance companies.
 - Claims of nonresidents against, §23-68-116.
 - Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.
- Funds.
 - Deposit and use, §23-68-114.
 - Source, §23-68-114.
- Exemption from fees, §23-68-122.
- Fees.
 - Exemption from fees, §23-68-122.
- Foreign insurance companies.
 - Claims against, §23-68-117.
 - Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.
- Funds.
 - Deposit and use, §23-68-114.
 - Source, §23-68-114.
- Garnishment of assets, §23-68-120.
- Grounds for rehabilitation.
 - Domestic insurers, §23-68-106.
- Injunctions, §23-68-105.
- Jurisdiction of delinquency proceedings, §23-68-103.
- Notice.
 - Assessments, §23-68-132.
 - Claims, §23-68-118.
- Offsets, §23-68-127.
- Order of rehabilitation, §23-68-110.
 - Termination, §23-68-110.
- Protected cell companies, §23-63-1707.
- Reinsurer's liability, §23-68-133.
- Remedies.
 - Exclusiveness, §23-68-103.
- Reports.
 - Assessments, §23-68-130.
- Time to file claims, §23-68-129.
- Transfers.
 - Voidable transfers, §23-68-125.

INSURANCE —Cont'd**Rehabilitation —Cont'd**

Venue of delinquency proceedings,
§23-68-103.

Change of venue, §23-68-103.

Voidable transfers, §23-68-125.

Reinsurance.

Approval, §23-62-205.

Captive insurance companies,
§23-63-1611.

Delinquency proceedings.

Reinsurer's liability, §23-68-133.

Domestic stock and mutual insurers.

Assumption reinsurance,
§§23-69-149, 23-69-150.

Exception to provisions, §23-62-201.

Foreign trade insurance.

Exception to provisions, §23-62-201.

Limits of risk, §23-62-202.

Mutual assessment life and disability
insurers.

Bulk reinsurance, §23-72-119.

Notice, §23-62-205.

Reserves ceded to nonadmitted
reinsurers, §§23-62-301 to
23-62-307.

Applicability of act, §23-62-301.

Credit allowed to domestic ceding
insurers, §§23-62-305,
23-63-306.

Purpose of act, §23-62-302.

Qualified United States financial
institution defined, §23-62-307.

Report of funds withheld under
reinsurance treaties, §23-62-303.

Right of commissioner to examine
agreements, §23-62-304.

Title of act, §23-62-301.

Restrictions on.

Limits of risk, §23-62-202.

Rules and regulations, §23-62-203,
§23-62-204.

Wet marine insurance.

Exception to provisions, §23-62-201.

Reinsurance intermediaries.

Books and records.

Intermediary brokers, §23-62-406.

Contract provisions required.

Intermediary brokers, §23-62-405.

Intermediary managers, §23-62-408.

Definitions, §23-62-402.

Examination authority, §23-62-411.

General provisions, §§23-62-401 to
23-62-413.

Insurers duties.

Intermediary broker services,
§23-62-407.

INSURANCE —Cont'd**Reinsurance intermediaries —Cont'd**

Intermediaries.

Access to records, §23-62-411.

Intermediary brokers.

Books and records, §23-62-406.

Insurers duties, §23-62-407.

Intermediary managers.

Prohibited acts, §23-62-409.

Reinsurers duties, §23-62-410.

Required contract provisions,
§23-62-408.

Liabilities, §23-62-412.

Licensure, §23-62-404.

Out of state licenses, §23-62-404.

Penalties, §23-62-412.

Qualified United States financial
institution defined, §23-62-403.

Regulations, §23-62-413.

Reinsurers duties.

Intermediary managers, §23-62-410.

Rules, §23-62-413.

Short title, §23-62-401.

Submanagers prohibited, §23-62-409.

Title of act, §23-62-401.

Reports.

Brokers.

Surplus lines, §23-65-314.

Burial associations.

Semiannual reports, §23-78-120.

Captive insurance companies,
§23-63-1607.

Commissioner.

Annual report, §23-61-112.

Examinations, §23-61-205.

Companies.

Annual statement and other
information, §23-63-216.

Credit life and disability insurance.

Claims, §23-87-115.

Delinquency proceedings.

Petition and report for assessment,
§23-68-130.

Fraudulent insurance acts,

§§23-66-505 to 23-66-507.

Insurance producers.

Reports to commissioner,
§23-64-517.

Legal insurance.

Annual report, §23-91-215.

Exempt persons, §23-91-206.

Public documents, §23-91-227.

Life and health insurance guaranty
association.

Board of directors.

Annual report, §23-96-109.

Material transactions disclosures,
§23-63-1402.

INSURANCE —Cont'd**Reports —Cont'd**

- Minimum basic benefit policies.
- Requirements for insurers,
§23-98-111.
- Property and casualty insurance
guaranty.
- Advisory association, §23-90-109.
- Rates and rating organizations.
- Loss and expense experience,
§23-67-215.
- Reciprocal insurers.
- Annual statement, §23-70-113.
- Risk management.
- Annual reports, §23-61-610.
- Information reported to manager,
§23-61-609.
- Surplus lines.
- Independently procured coverages,
§23-65-103.
- Use of credit information for personal
insurance.
- Annual reporting, §23-67-415.

Reserves.

- Life insurance.
- Deposit of reserves, §23-81-130.
- Capital deposits may be credited,
§23-81-135.
- Deficiency of deposit, §23-81-136.
- Maintenance of deposits,
§23-81-134.
- Valuation law for life insurance and
annuities.
- See LIFE INSURANCE.
- Mutual assessment life and disability
insurers.
- Required, §23-72-104.
- Stipulated premium insurers.
- Required, §23-71-105.
- Title insurance, §23-63-614.

Resident agents.

- Defined, §23-64-102.

Residential earthquake insurance.

- Arkansas earthquake authority act,
§§23-102-101 to 23-102-119.
- See EARTHQUAKE AUTHORITY.

Restitution.

- Fraudulent insurance acts, §23-66-512.

**Risk-based capital act, §§23-63-1301
to 23-63-1316.**

- Appeals.
- Penalties for violations, §23-63-1314.
- Applicability of provisions.
- Exemptions, §23-63-1310.
- Authorized control level events.
- Defined, §§23-63-1302, 23-63-1306.
- Generally, §23-63-1306.

INSURANCE —Cont'd**Risk-based capital act —Cont'd**

- Citation of act.
- Short title, §23-63-1301.
- Company action level events.
- Defined, §23-63-1302.
- Generally, §23-63-1304.
- Confidentiality of information.
- RBC plans, §23-63-1309.
- RBC reports, §23-63-1309.
- Definitions, §23-63-1302.
- Fines, §23-63-1314.
- Foreign insurers.
- Defined, §23-63-1302.
- General provisions, §23-63-1311.
- Hearings.
- Confidential department hearings
upon happenings of certain
events, §23-63-1308.
- Immunity.
- Employees of insurance department.
- Immunity from actions,
§23-63-1312.
- Mandatory control level events.
- Defined, §§23-63-1302, 23-63-1307.
- Generally, §23-63-1307.
- Notices to insurers, §23-63-1316.
- Penalties.
- Violations of act, §23-63-1314.
- RBC plans.
- Company action level events,
§23-63-1304.
- Confidentiality of information,
§23-63-1309.
- Defined, §23-63-1302.
- Regulatory action level events,
§23-63-1305.
- RBC reports.
- Confidentiality of information,
§23-63-1309.
- Defined, §23-63-1302.
- Foreign insurers, §23-63-1311.
- General provisions, §23-63-1303.
- Regulatory action level events.
- Defined, §§23-63-1302, 23-63-1305.
- Generally, §23-63-1305.
- Reports.
- RBC reports.
- Defined, §23-63-1302.
- Generally, §23-63-1303.
- Revocation of insurer's license.
- Violations of provisions,
§23-63-1314.
- Rules and regulations.
- Adoption by commissioner,
§§23-63-1310, 23-63-1313.
- Severability of provisions, §23-63-1315.

INSURANCE —Cont'd**Risk-based capital act —Cont'd**

Supplemental nature of provisions,
§23-63-1310.

Suspension of insurer's license.
Violations of provisions,
§23-63-1314.

Title of act, §23-63-1301.

Total adjusted capital.

Comparison to RBC levels.
Publication prohibited,
§23-63-1309.

Defined, §23-63-1302.

Use of information in rate making.

Prohibited, §23-63-1309.

Violations of act, §23-63-1314.

Risk-based capital requirements for health organizations.

Applicability of provisions.

Exemptions, §23-63-1509.

Authorized control level event,
§23-63-1505.

Company action level event,
§23-63-1503.

Confidentiality of information,
§23-63-1508.

Definitions, §§23-63-1501, 23-63-1503
to 23-63-1506.

Foreign health organizations,
§23-63-1510.

Defined, §23-63-1501.

Hearings, §23-63-1507.

Immunity.

Insurance commissioner and
employees of insurance
department, §23-63-1511.

Mandatory control level event,
§23-63-1506.

Notices to insurers, §23-63-1512.

RBC plans.

Confidentiality, §23-63-1508.

Defined, §23-63-1501.

RBC reports.

Adjusted RBC report.

Defined, §23-63-1501.

Confidentiality, §23-63-1508.

Defined, §23-63-1501.

Foreign health organizations,
§23-63-1510.

General provisions, §23-63-1502.

Regulatory action level event,
§23-63-1504.

Rules and regulations, §23-63-1509.

Supplemental nature of provisions,
§23-63-1509.

Risk management.

Annual report.

Manager to file, §23-61-610.

INSURANCE —Cont'd**Risk management —Cont'd**

Authorization to procure insurance.
Contents, §23-61-606.

Written authorization by manager,
§23-61-606.

Bids and bidding.

Procurement of insurance or surety
bonding, §23-61-606.

Bonds, surety.

Procurement of insurance or surety
bonding, §23-61-606.

Citation of act, §23-61-606.

Definitions, §23-61-603.

Division.

Creation, §23-61-604.

Emergencies.

Procurement of insurance or surety
bonding under emergency
conditions, §23-61-606.

Legislative intent, §23-61-602.

Limitation, §23-63-701.

Manager.

Annual report.

Filing, §23-61-610.

Information reported to manager,
§23-61-609.

Promulgation of rules and
regulations, §23-61-607.

Request for advice and assistance of
manager, §23-61-608.

Written authorization to procure
insurance, §23-61-606.

Procurement of insurance.

Emergency conditions, §23-61-606.

Written authorization by manager,
§23-61-606.

Purpose of subchapter, §23-61-602.

Reports.

Information reported to manager,
§23-61-609.

Manager to file, §23-61-610.

Request for advice and assistance of
manager, §23-61-608.

Risk manager.

Appointment, §23-61-605.

Defined, §23-61-603.

Powers, §23-61-605.

Rules and regulations.

Promulgation by manager,
§23-61-607.

Short title, §23-61-601.

State purchasing director.

Limitation on jurisdiction,
§23-61-606.

Risk retention and purchasing groups.

See RISK RETENTION AND
PURCHASING GROUPS.

INSURANCE —Cont'd**Rules and regulations.**

- Burial associations, §23-78-121.
- Captive insurance companies, §23-63-1615.
- Commissioner.
 - Captive insurance companies, §23-63-1615.
 - Disclosure of nonpublic personal information, §23-61-113.
 - Financial reporting, §23-63-613.
 - Insurance producer licensing, §23-64-518.
 - Promulgation, §23-61-108.
 - Protected cell companies, §23-63-1709.
- Consumer protection, §23-66-608.
- Creditor-placed insurance, §23-101-114.
- Domestic stock and mutual insurers.
 - Equity securities.
 - Promulgation of rules, §23-69-208.
- Fraudulent insurance acts, §23-66-511.
- Holding companies.
 - Mutual insurance holding companies, §23-69-322.
 - Promulgation of rules by commissioner, §23-63-518.
- Insurance fraud investigation division trust fund, §23-100-106.
- Insurance producer licensing, §23-64-518.
- Life insurance.
 - Valuation law for life insurance annuities, §23-84-113.
- Long-term care insurance.
 - Administrative procedure, §23-97-206.
 - Standards for long-term care insurance.
 - Disclosure and performance standards, §23-97-208.
- Managing general agents, §23-64-408.
- Material transactions disclosures, §23-63-1405.
- Minimum basic benefit policies.
 - Notices and hearing before adoption, §23-98-103.
- Policies.
 - Commercial property and casualty insurance policies.
 - Promulgation, §23-79-310.
- Prohibited activities, §23-66-609.
- Property and casualty insurance guaranty.
 - Promulgation of rules by commissioner, §23-90-122.
- Protected cell companies, §23-63-1709.

INSURANCE —Cont'd**Rules and regulations —Cont'd**

- Reinsurance, §§23-62-204, 23-62-308.
- Risk management.
 - Manager to promulgate rules and regulations, §23-61-607.
- Risk retention and purchasing groups.
 - Commissioner, §23-94-215.
- Risk-sharing plans for property and casualty insurance.
 - Commissioner to promulgate, §23-95-108.
- Rural risk underwriting association.
 - Commissioner's rules and regulations, §23-88-308.
- Unfair competition and trade practices.
 - Promulgation of rules to identify prohibited methods of competition, §23-66-207.
- Use of credit information for personal insurance, §23-67-414.
- Workers' compensation.
 - Mandatory insurance plans, §23-67-310.
 - Appeals of orders or rulings, §23-67-309.
- Rural risk underwriting association.**
 - Association.
 - Defined, §23-88-302.
 - Commissioner.
 - Defined, §23-88-302.
 - Plan.
 - Submission to commissioner, §23-88-305.
 - Rules and regulations, §23-88-308.
 - Companies.
 - Insurer, §23-88-302.
 - Declaration of legislature, §23-88-301.
 - Definitions, §23-88-302.
 - Governing board, §23-88-304.
 - Appointment of members, §23-88-304.
 - Assessments.
 - Authorization to make, §23-88-306.
 - Composition, §23-88-304.
 - Number of members, §23-88-304.
 - Plan.
 - Duties as to plan, §23-88-305.
 - Terms of members, §23-88-304.
 - Legislative intent, §23-88-301.
 - Liability of plan participants, §23-88-307.
 - Membership, §23-88-303.
 - Person.
 - Defined, §23-88-302.

INSURANCE —Cont'd**Rural risk underwriting association**

—Cont'd

Plan, §23-88-303.

Appeals, §23-88-309.

Contents, §23-88-306.

Establishment of underwriting standards, §23-88-306.

Requirements of plan, §23-88-306.

Submission to commissioner, §23-88-305.

Policies.

Appeals, §23-88-309.

Premiums.

Net direct written premiums.

Certification of aggregate by commissioners, §23-88-308.

Defined, §23-88-302.

Rules and regulations.

Commissioner to have authority to promulgate, §23-88-308.

Standards for underwriting.

Plan to establish, §23-88-306.

Rural telecommunications cooperatives.

Directors, officers, employees or agents.

Purchasing on behalf of, §23-17-238.

Savings and loan associations.

Accounts, §23-37-308.

Investments, §23-63-823.

Seals.

Commissioner, §23-61-102.

Secure transactions.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED INSURANCE.

Securities.

Holding companies.

Voting of securities, §23-63-520.

Service of process.

Foreign or alien insurers and domestic reciprocal insurers, §23-63-304.

Group annuities and group life insurance.

Unauthorized insurers, §23-83-124.

Holding companies.

Control of or merger with domestic insurer, §23-63-512.

Mutual assessment life and disability insurers.

Actions, §23-72-120.

Nonresident licensees.

Appointment of commissioner as agent for service, §23-64-227.

Policies.

Suits against insurers, §23-79-205.

Reciprocal insurers, §23-70-111.

INSURANCE —Cont'd**Service of process —Cont'd**

Risk retention and purchasing groups.

Foreign risk retention groups.

Designation of commissioner as agent, §23-94-205.

Purchasing groups.

Designation of commissioner as agent, §23-94-208.

Suits against insurers, §23-79-205.

Surplus lines.

Actions against insurer, §23-65-318.

Unauthorized insurers.

Commissioner agent for service, §23-65-202.

Exemptions from service of process provisions, §23-65-204.

Procedure for service, §23-65-203.

Unfair competition and trade practices.

Hearings, §23-66-209.

Short title, §23-60-101.**Sickness insurance.**

Credit life and disability insurance, §§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.

See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.

Solicitors.

Defined, §23-64-102.

Scope of chapter, §23-64-101.

Solvency.

Mutual assessment life and disability insurers, §23-72-121.

Stipulated premium insurers, §23-71-113.

Sovereign immunity.

Direct action against insurers, §23-79-210.

State of Arkansas.

Direct actions against insurer, §23-79-210.

State purchasing director.

Risk management.

Limitation on jurisdiction, §23-61-606.

Stock and stockholders.

Companies.

Special surplus requirement, §23-63-207.

INSURANCE —Cont'd**Stock and stockholders —Cont'd**

Deposits.

Assignment or conveyance of securities or assets, §23-63-907.

Securities eligible for deposit, §23-63-903.

Domestic stock and mutual insurers.

See DOMESTIC STOCK AND MUTUAL INSURERS.

Investments.

Cancellation of treasury stock, §23-63-834.

Common stocks, §23-63-816.

Foreign securities, §23-63-824.

Insurance stocks, §23-63-817.

Obligations or stock of certain federal agencies, §23-63-812.

Preferred or guaranteed stock, §23-63-815.

Subsidiaries stocks, §23-63-818.

Trust securities, §23-63-820.

Reciprocal insurers.

Subscribers' share in assets, §23-70-122.

Stipulated premium insurers.

Capital stock, §23-71-107.

Subrogation.

Casualty insurance.

Injured person subrogated to right of insured, §23-89-101.

Insurer making payment, §23-89-405.

Life and health insurance guaranty association.

Subrogation rights, §23-96-114.

Underinsured motorists, §23-89-209.

Subrogation recovery, §23-79-146.**Subscribers.**

Reciprocal insurers.

Advisory committee, §23-70-116.

Liability, §23-70-117.

Who may be subscribers, §23-70-115.

Subsidiaries.

Holding companies, §23-63-505.

Investments.

Subsidiary stocks, §23-63-818.

Surety insurance.

Defined, §23-62-106.

Surety insurers.

Estoppel.

Denying corporate power to be surety, §23-63-1004.

Expenses.

Allowance of bond expense, §23-63-1001.

Individual rights.

Insurer's rights same as individual, §23-63-1003.

INSURANCE —Cont'd**Surety insurers —Cont'd**

Sole surety on court, judicial and other bonds, §§23-63-1001, 23-63-1002.

Surpluses.

Domestic stock and mutual insurers.

Borrowed surplus, §23-69-132.

Surplus lines.

Actions against insurer, §23-65-318.

Affidavits.

Broker's affidavit, §23-65-306.

Agents.

Brokers may accept business from agents, §23-65-309.

Brokers.

Acceptance of business from agents, §23-65-309.

Affidavit, §23-65-306.

Annual statement, §23-65-314.

Compliance with provisions.

Penalty for failure to comply, §23-65-316.

Licenses.

Revocation, §23-65-317.

Surplus line brokers, §23-65-308.

Records, §23-65-313.

Tax on surplus line brokers, §23-65-315.

Withdrawal of approval of insurer.

Notification of brokers, §23-65-319.

Changes in insurance, §23-65-311.

Compliance with provisions.

Penalty for failure to comply, §23-65-316.

Contracts.

Endorsement, §23-65-307.

Validity of certain contracts, §23-65-304.

Evidence of insurance, §23-65-311.

Exemptions from surplus line law, §23-65-302.

Losses.

Liability of insurer, §23-65-312.

Nonadmitted insurers, §23-65-303.

Premiums.

Unearned premiums.

Liability of insurer as to losses and unearned premiums, §23-65-312.

Procurement, §23-65-305.

Records.

Production on order, §23-65-104.

Surplus line brokers, §23-65-313.

Reports.

Annual statement, §23-65-314.

Independently procured coverages, §23-65-103.

INSURANCE —Cont'd**Surplus lines —Cont'd**

Service of process.

Actions against insurer, §23-65-318.

Solvent insurers, §23-65-310.

Taxation.

Independently procured coverages,
§23-65-103.

Title of subchapter, §23-65-301.

Unearned premiums.

Liability of insurer, §23-65-312.

Surviving spouse.

Group and blanket health insurance.

Continuation of coverage upon
change in marital status,
§23-86-114.

Taxation.

Brokers.

Surplus lines, §23-65-315.

Domestic stock and mutual insurers.

Personal property.

Situs for taxation, §23-69-136.

Foreign taxes.

Retaliation, §23-63-102.

Legal insurance.

Premiums, §23-91-226.

Life and health insurance guaranty
association.

Exemption, §23-96-109.

Property and casualty insurance
guaranty.

Assessment as credit against taxes,
§23-90-119.

Risk retention groups, §23-94-210.

Surplus lines, §23-65-315.

Independently procured coverages,
§23-65-103.

Test tube babies.

Group and blanket health insurance.

Coverage required, §23-86-118.

Theft.

Diversion or appropriation of funds by
licensees, §23-64-223.

Third parties.

Health insurance.

Ownership of policies, §23-85-103.

Title insurance.

Agents.

Licensing, §§23-103-101 to
23-103-316.

See TITLE INSURANCE.

Defined, §23-62-108.

Investments.

Special investments by title insurer,
§23-63-832.

Title of act, §23-60-101.

INSURANCE —Cont'd**Torts.**

Casualty insurance.

Retention of tort liability,
§23-89-206.

Insured not subject to suit for tort.

Suits against insurers, §23-79-210.

Trusts and trustees.

Insurance fraud investigation division,
§§23-100-101 to 23-100-107.

Investments.

Equipment trust certificates,
§23-63-819.

Investment trust securities,
§23-63-820.

Minimum basic benefit policies.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

Unauthorized insurers.

Actions.

Defense of action by unauthorized
insurer, §23-65-205.

Suits by unauthorized insurers
prohibited, §23-65-102.

Aiding prohibited, §23-65-101.

Attorney's fees.

Actions against unauthorized
insurers, §23-65-205.

Damages, §23-65-205.

Defenses.

Actions against unauthorized
insurer, §23-65-205.

Interpretation of subchapter,
§23-65-201.

Representing prohibited, §23-65-101.

Service of process.

Commissioner agent for service,
§23-65-202.

Exemptions from provisions,
§23-65-204.

Procedure, §23-65-203.

Suits by unauthorized insurers
prohibited, §23-65-102.

Title of subchapter, §23-65-201.

Underinsured motorists, §23-89-209.

Annual report by insurers,
§23-63-1202.

Set-off or reduction of recovery,
§23-89-403.

Underwriters.

Policies, §23-79-117.

**Unfair competition and trade
practices.**

Advertising.

Prior approval required, §23-66-316.

Penalties for advertising without
prior approval, §23-66-316.

INSURANCE —Cont'd**Unfair competition and trade practices —Cont'd****Agents.**

Favored agent or insurer.

Coercion of debtors, §23-66-312.

Appearances, §23-66-209.

Applicability of prohibitions,
§23-66-315.

Applicant's credit history, §23-66-317.

Business development compensation to
life policyholders.

Prohibited, §23-66-311.

Cancellation of policies.

Notice of intention to cancel,
§23-66-319.Unlawful for agent to induce or
solicit any insured to lapse,
forfeit or surrender any
insurance policy, §23-66-307.

Cease and desist orders, §23-66-210.

Judicial review, §23-66-212.

Penalty for violation, §23-66-211.

Certain practices prohibited,
§23-66-205.**Claims.**

False claims or proofs, §23-66-301.

Claims or loss histories, §23-66-318.

Claims payment.

Methods, §23-66-321.

Coercion of business.

Prohibited, §23-66-303.

Coercion of debtors, §23-66-312.

Commissioner.

Powers, §23-66-208.

Common ownership, management and
directors of insurance companies,
§23-66-314.

Confidentiality of information.

Disclosure prohibited without
consent, §23-66-315.Consumer sales protection act,
§§23-66-601 to 23-66-609.**Contracts.**Overwriting contracts of life insurer,
§23-66-313.Creditor-placed insurance,
§§23-101-101 to 23-101-114.See CREDITOR-PLACED
INSURANCE.

Declaration of purpose, §23-66-202.

Definitions, §23-66-203.

Unfair methods of competition,
§23-66-206.

Existing law.

Provisions of act additional,
§23-66-204.**INSURANCE —Cont'd****Unfair competition and trade practices —Cont'd**

False representations.

Penalty, §23-66-302.

Fees.Excess charges for insurance,
§23-66-310.

Fictitious groups, §23-66-304.

Fraternal benefit societies.

Unfair methods of competition and
unfair and deceptive acts and
practices, §23-74-610.Genetic nondiscrimination in
insurance act, §23-66-320.

Hearings, §23-66-209.

Immunity of persons attending or
testifying from prosecutions,
§23-66-214.**Intervenors.**

Judicial review, §23-66-213.

Judicial review by intervenors,
§23-66-213.Judicial review of cease and desist
orders, §23-66-212.Late payment of claims by health
carriers.

Penalty, §23-66-215.

Legislative declaration, §23-66-202.

Life insurance.

Requirements when agent seeks to
induce change of existing
permanent life insurance
coverage, §23-66-307.**Misdemeanors.**Violations of certain provisions,
§23-66-307.Misrepresentation of other policies,
§23-66-306.Misrepresentations in application for
insurance, §23-66-305.**Names.**

Fictitious groups, §23-66-304.

Other policies.

Misrepresentation, §23-66-306.

Payment of claims.

Methods, §23-66-321.

Penalties.

Generally, §23-66-315.

Penalty orders, §23-66-210.

Policies.Charge for substitution of policy.
Prohibited, §23-66-309.Unlawful for agent to induce or
solicit any insured to lapse,
forfeit or surrender any
insurance policy, §23-66-307.

INSURANCE —Cont'd**Unfair competition and trade practices —Cont'd**

Premiums.

Illegal dealing in premiums,
§23-66-310.

Production of books, §23-66-209.

Provisions of act additional to existing
law, §23-66-204.

Public policy of state with respect to
insurance agents, §23-66-307.

Rebates.

Prohibited, §23-66-308.

Rules and regulations.

Promulgation, §23-66-207.

Service of process, §23-66-209.

Short title, §23-66-201.

Title of subchapter, §23-66-201.

Violations.

Generally, §23-66-315.

Penalties for violations of certain
sections, §23-66-307.

Witnesses, §23-66-209.

Immunity from prosecutions,
§23-66-214.

Uninsured motorists.

Casualty insurance.

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.

Subrogation of insurer making
payment, §23-89-405.

Safety responsibility generally.

See MOTOR VEHICLE
INSURANCE.

Valued policy law.

Property insurance, total loss by fire
or natural disaster, §23-88-101.

Vending machines, §23-64-221.**Venue.**

Delinquency proceedings, §23-68-103.

Mutual assessment life and disability
insurers.

Actions, §23-72-120.

Policies.

Suits against insurers, §23-79-204.

Suits against insurers, §23-79-204.

**Viatical settlements, §§23-81-601 to
23-81-615.**

See VIATICAL SETTLEMENTS.

Waiver.

Policies.

Claims administration not waiver,
§23-79-127.

INSURANCE —Cont'd**Witnesses.**

Burial associations.

Hearings, §23-78-108.

Commissioner, §23-61-301.

Testimony compelled, §23-61-302.

Unfair competition and trade
practices.

Hearings, §23-66-209.

Workers' compensation.

See WORKERS' COMPENSATION.

INSURANCE COMPANIES.**Acquisitions involving insurers not
otherwise covered.**

Applicability of provisions, §23-63-526.

Inapplicable provisions, §23-63-530.

Competitive standard, §23-63-528.

Definitions, §23-63-525.

Orders and penalties, §23-63-529.

Preacquisition notification, §23-63-527.

Waiting period, §23-63-527.

**Administrative functions of
domestic insurers, §23-63-105.****Approval as a domestic insurer,
§23-63-218.****Captive insurance companies,
§§23-63-1601 to 23-63-1623.**

See CAPTIVE INSURANCE
COMPANIES.

Certificates of authority.

Amendments, §23-63-211.

Annual statement and other
information, §23-63-216.

Applications, §23-63-209.

Approval as a domestic insurer,
§23-63-218.

Authorization for investment purposes
only, §23-63-201.

Capital funds required, §23-63-205.

Captive insurance companies,
§23-63-1623.

Combinations of insuring powers.

One insurer, §23-63-204.

Continuance of authority, §23-63-211.

Deposit requirements, §23-63-206.

Eligibility, §23-63-202.

Exemption for certificate requirement,
§23-63-201.

Expiration of authority, §23-63-211.

General eligibility of insurers for
certificate of authority,
§23-63-202.

Issuance of authority, §23-63-210.

Lloyd's plan insurers, §23-63-208.

Mandatory revocation or suspension,
§23-63-212.

Name of insurer.

Requirements, §23-63-203.

INSURANCE COMPANIES —Cont'd**Certificates of authority —Cont'd**

Notice.

Duration, §23-63-215.

Insurer's obligations during suspension period, §23-63-215.

Revocation or suspension of certificate, §23-63-214.

Ownership of certificate, §23-63-210.

Qualifications.

Capital funds required, §23-63-205.

Deposit requirements, §23-63-206.

Special surplus requirement, §23-63-207.

Refusal of authority, §23-63-210.

Reinstatement, §23-63-215.

Reports.

Annual statement and other information, §23-63-216.

Required, §23-63-201.

Exceptions, §23-63-201.

Revocation or suspension.

Grounds, §23-63-213.

Hearings, §23-63-213.

Mandatory revocation or suspension, §23-63-212.

Notice, §23-63-214.

Reinstatement, §§23-63-211, 23-63-215.

Special surplus requirement, §23-63-207.

Surrender, §23-63-211.

Common ownership, management and directors of insurance companies, §23-66-314.**Consumer credit information, use in personal insurance, §§23-67-401 to 23-67-415.**

See INSURANCE.

Contracts.

Service contracts, §23-63-105.

Conversion to foreign insurer, §23-63-218.**Domestic insurance companies.**

Liquidation.

Claims of nonresidents, §23-68-116.

Conduct of delinquency proceedings against, §23-68-113.

Funds.

Deposit and use of funds, §23-68-114.

Source, §23-68-114.

Order of liquidation, §23-68-111.

Rehabilitation.

Claims of nonresidents against, §23-68-116.

Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.

INSURANCE COMPANIES —Cont'd**Domestic insurance companies**

—Cont'd

Rehabilitation —Cont'd

Funds.

Deposit and use, §23-68-114.

Source, §23-68-114.

Domestic stock and mutual insurers.

See DOMESTIC STOCK AND MUTUAL INSURERS.

Effects of redomestication, §23-63-218.**Farm credit act of 1971.**

Bond issues.

Authorized investments, §23-32-201.

Farmers' mutual aid associations, §§23-73-101 to 23-73-123.

See FARMERS' MUTUAL AID ASSOCIATIONS.

Foreign insurance companies.

Conservation.

Grounds for conservation, §23-68-108.

Conversion to foreign insurer, §23-63-218.

Definition of "foreign insurer," §23-60-102.

Effects of redomestication, §23-63-218.

Investments, §23-63-835.

Liquidation.

Ancillary liquidation.

Grounds, §23-68-109.

Order, §23-68-112.

Claims against foreign insurers, §23-68-117.

Conduct of delinquency proceedings against, §23-68-113.

Funds.

Deposit and use, §23-68-114.

Order of liquidation, §23-68-111.

Lloyd's plan insurers, §23-63-208.

Railroads.

See RAILROADS.

Redomestication.

Effects, §23-63-218.

Rehabilitation.

Claims against, §23-68-117.

Conduct of delinquency proceedings against, §§23-68-113, 23-68-115.

Funds.

Deposit and use, §23-68-114.

Source, §23-68-114.

Health maintenance organizations.

General provisions, §§23-76-101 to 23-76-132.

See HEALTH MAINTENANCE ORGANIZATIONS.

INSURANCE COMPANIES —Cont'd**Health maintenance organizations —Cont'd**

Risk-based capital requirements for health organizations, §§23-63-1501 to 23-63-1512.

See INSURANCE.

Holding companies.

Generally, §§23-63-501 to 23-63-524.

See HOLDING COMPANIES, INSURANCE.

Mutual insurance holding companies, §§23-69-301 to 23-69-323.

See HOLDING COMPANIES, INSURANCE.

Hospital and medical service

corporations, §§23-75-101 to 23-75-122.

See HOSPITAL AND MEDICAL SERVICE CORPORATIONS.

Investments.

Applicability of chapter, §23-63-801.

Authorization of investment, §23-63-804.

Banks.

International banks, §23-63-813.

Call options, §23-63-838.

Cancellation of treasury stock.

Certificate of cancellation, §23-63-834.

Captive insurance companies, §23-63-1610.

Certificates of deposit, §23-63-836.

Chattel mortgages, §23-63-827.

Collateralized mortgage obligations, §23-63-840.

Collateral loans, §23-63-822.

Common stocks, §23-63-816.

Corporate bonds and debentures, §23-63-814.

Diversification of investments, §23-63-805.

Eligible investments, §23-63-802.

Equipment trust certificates, §23-63-819.

Failure to dispose of real estate, property or securities, §23-63-831.

Financial futures contracts, §23-63-838.

Foreign insurers, §23-63-835.

Foreign securities, §23-63-824.

Fossil or synthetic fuel production.

Property and facilities for, §23-63-837.

General investment authority, §23-63-825.

General qualifications, §23-63-803.

INSURANCE COMPANIES —Cont'd**Investments —Cont'd**

Improvement district obligations, §23-63-810.

Insurance stocks, §23-63-817.

International banks, §23-63-813.

Investment trust securities, §23-63-820.

Loans guaranteed by the United States, §23-63-807.

Local industrial development bonds, §23-63-811.

Miscellaneous investments, §23-63-825.

Municipal or county utilities, §23-63-809.

Negotiable bills of exchange, §23-63-839.

Obligations or stock of certain federal agencies, §23-63-812.

Policy loans, §23-63-821.

Preferred or guaranteed stock, §23-63-815.

Prohibited investments, §23-63-833.

Public obligations, §23-63-808.

Put options, §23-63-838.

Qualifications.

Eligible investments, §23-63-802.

General qualifications, §23-63-803.

Real estate, §23-63-828.

Failure to dispose of real estate, §23-63-831.

Time limit for disposal, §23-63-829.

Real estate mortgages, §23-63-826.

Savings and loan associations, §23-63-823.

Scope of chapter, §23-63-801.

Special investments by title insurer, §23-63-832.

Stocks of subsidiaries, §23-63-818.

Time drafts, §23-63-839.

Time limit for disposal of property and securities, §§23-63-829, 23-63-830.

Treasury stock.

Cancellation, §23-63-834.

United States government obligations, §23-63-806.

Utilities, §23-63-809.

Liquidation.

See INSURANCE.

Loans.

Servicemen's Readjustment Act, §23-32-205.

Medical service corporations,

§§23-75-101 to 23-75-122.

See HOSPITAL AND MEDICAL SERVICE CORPORATIONS.

INSURANCE COMPANIES —Cont'd**Mortgage loans.**

Sale of certain mortgage loans,
§23-32-204.

Mutual insurance holding companies, §§23-69-301 to 23-69-323.

See **HOLDING COMPANIES, INSURANCE.**

Names.

Captive insurance companies.
Deceptively similar names,
§23-63-1603.

Foreign state or country.

Unjustified refusal to permit
business because of similar
name.

Retaliation, §23-63-103.

Policies.

Information about company to be
contained on policy, §23-79-138.

Protected cells, §§23-63-1701 to 23-63-1709.**Assets.**

Availability to creditors and other
claimants, §23-63-1706.

Use, §23-63-1705.

Citation of act, §23-63-1701.

Conservation of protected cell
companies, §23-63-1707.

Definitions, §23-63-1703.

Establishment, §23-63-1704.

Liquidation of protected cell
companies, §23-63-1707.

Operation, §23-63-1705.

Plan of operation, §23-63-1704.

Purpose of act, §23-63-1702.

Rehabilitation of protected cell
companies, §23-63-1707.

Rules and regulations, §23-63-1709.

Securitizations not deemed transaction
of insurance business,
§23-63-1708.

Title of act, §23-63-1701.

Redomestication.

Effects, §23-63-218.

Registered agent.

Foreign or alien insurers and domestic
reciprocal insurers, §§23-63-301 to
23-63-304.

Registered office.

Foreign or alien insurers and domestic
reciprocal insurers, §§23-63-301,
23-63-302.

Rehabilitation.

Claims of nonresidents against
domestic insurers, §23-68-116.

Conduct of delinquency proceedings
against, §§23-68-113, 23-68-115.

INSURANCE COMPANIES —Cont'd**Rehabilitation —Cont'd****Funds.**

Deposit and use, §23-68-114.

Source, §23-68-114.

Retaliation.

Foreign taxes, fees, restrictions, etc.,
§23-63-102.

Rules and regulations.

Promulgation, §23-63-218.

Rural risk underwriting association.

Insurer, §23-88-302.

Servicemen's Readjustment Act.

Loans, §23-32-205.

Stock and stockholders.

Special surplus requirement,
§23-63-207.

Unjustified refusal to permit business because of similar name, §23-63-103.**Use of credit information in personal insurance act, §§23-67-401 to 23-67-415.**

See **INSURANCE.**

INSURANCE SALES CONSUMER PROTECTION ACT, §§23-66-601 to 23-66-609.**INTEREST.****Credit unions.**

Loans, §23-35-603.

Public utilities.

Deposits with public utilities,
§23-4-206.

Trust companies.

Capital notes or debentures,
§23-51-117.

INTERLOCAL COOPERATION.**Municipal electric utility interlocal cooperation act.**

See **MUNICIPAL ELECTRIC CONSOLIDATED AUTHORITIES.**

INTERLOCUTORY ORDERS.**Orders generally.**

See **ORDERS.**

INTERPLEADER AND INTERVENTION.**Insurance.**

Unfair competition and trade
practices.

Judicial review by intervenor,
§23-66-213.

Public utilities, §23-4-306.

Environmental and economic
protection.

Certificates of environmental
compatibility and public need.

Parties to certification
proceedings, §23-18-517.

INTERSTATE COMMERCE.**Motor carriers.**

Applicability of provisions to interstate or foreign commerce, §23-13-228.

Motor carrier act of 1955 not to affect, §23-13-205.

Public utilities.

Exemptions from chapter, §23-1-102.

Railroads.

Discrimination.

Provisions not to apply to interstate traffic, §23-4-703.

INTERVENTION.

See INTERPLEADER AND INTERVENTION.

INTOXICATING LIQUORS.**Drunkenness.**

See DRUNKENNESS.

INVENTORY.**Highways.**

State highway and transportation department.

Requiring inventories of property, §23-2-307.

Public service commission.

Commission may require inventories of property, §23-2-307.

Public utilities.

Commission may require inventories of property, §23-2-307.

INVESTIGATIONS.**Aviation.**

Air commerce.

Powers of transportation commission, §23-14-107.

Banking board, §23-46-405.**Banks.**

Applications for incorporation, §23-48-304.

Carriers.

Rates and charges.

Change in rates.

Investigation by commission, §23-4-622.

Check-cashers.

Complaints, §23-52-117.

Continuing care providers.

Grounds for investigation, §23-93-114.

Powers of commissioner, §23-93-114.

Electric cooperative corporations.

Rates and charges.

Public service commission, §23-4-908.

Greyhound racing.

Officers, directors and shareholders of franchise holders, §§23-111-405, 23-111-409.

INVESTIGATIONS —Cont'd**Highways.**

State highway and transportation department, §23-2-429.

Powers, §§23-2-310, 23-2-402.

Rates, charges or service of utilities.

Change in rates, §23-4-622.

Preliminary investigation, §23-3-118.

Horse racing.

Racing commission, §23-110-413.

Insurance.

Insurance fraud investigation division, §§23-100-101 to 23-100-107.

See INSURANCE.

Public service commission.

Commissioner or examiner, §23-2-429.

Powers of commission, §§23-2-310, 23-2-402.

Rates and charges.

Preliminary investigation, §23-3-118.

Surcharge to recover expenditures mandated by public authorities, §23-4-505.

Service of utilities.

Preliminary investigation, §23-3-118.

Public utilities.

Powers of regulatory commission, §§23-2-310, 23-2-402.

Preliminary investigation of rates, charges or service by commission, §23-3-118.

Rates and charges.

Change in rates.

Investigation of proposed rates, §23-4-405.

Surcharge to recover expenditures mandated by public authorities.

Investigation by commission, §23-4-505.

Railroads.

Crossings.

Regulation.

State highway commission, §§23-12-1004, 23-12-1007.

Savings and loan associations.

Supervisor.

Powers, §23-37-208.

Securities regulation.

Commissioner.

Powers and duties, §23-42-205.

Trust companies.

Charter application, §23-51-107.

Merger applications, §23-51-151.

INVESTMENT ADVISERS.**Securities regulations.**

See SECURITIES REGULATIONS.

INVESTMENTS.**Banks.**

Powers and limitations, §23-47-401.

Trust accounts.

Separate accounts required,
§23-47-705.**Building and loan associations.**

Authorized investments, §23-38-210.

Guaranty or permanent stock
associations, §23-38-203.

Real property, §23-38-213.

Captive insurance companies,

§23-63-1610.

Credit unions.

Authorized investment, §23-35-604.

Fiduciaries.

General provisions.

See FIDUCIARIES.

Fraternal benefit societies.

Authorized investments, §23-74-501.

Funds, §23-74-502.

Health maintenance organizations.

Guidelines, §23-76-117.

Hospital and medical service**corporations, §23-75-113.****Insurance.**

Burial associations.

Collections, §23-78-122.

Companies.

General provisions, §§23-63-801 to
23-63-840.

See INSURANCE.

Investor protection take-over act.Take-over offers, §§23-43-101 to
23-43-117.

See SECURITIES REGULATIONS.

Legal insurance.

Assets, §23-91-217.

Savings and loan associations.

Insurance, §23-63-823.

Legal investments in associations,
§23-37-512.**Securities regulation.**

General provisions.

See SECURITIES REGULATIONS.

Investment advisors.

See SECURITIES REGULATIONS.

Take-over offers.Investor protection take-over act,
§§23-43-101 to 23-43-117.

See SECURITIES REGULATIONS.

Trusts and trustees.

Insurance, §§23-63-819, 23-63-820.

INVESTOR EDUCATION FUND,

§23-42-213.

INVESTOR PROTECTION**TAKE-OVER ACT.****Take-over offers generally,**

§§23-43-101 to 23-43-117.

See SECURITIES REGULATIONS.

IN VITRO FERTILIZATION.**Health insurance.**

Coverage required, §23-85-137.

Group and blanket health insurance,
§23-86-118.**J****JOCKEYS.**

See HORSE RACING.

JOINT ACCOUNTS.**Credit unions, §23-35-504.**Secured and unsecured loans against,
§23-35-603.**Savings and loans associations,**

§23-37-502.

**JOINT TENANTS AND TENANTS IN
COMMON.****Banks.**

Multiple-party accounts, §23-47-204.

Credit unions.

Nonmembers, §23-35-504.

JUDGES.**Railroads.**

Passes.

Permitted to accept and use passes,
§§23-4-904, 23-4-905.**JUDGMENTS.****Insurance.**

Foreign decrees.

Enforcement, §23-61-111.

Reciprocal insurers, §23-70-111.

Subscribers' liability on judgment,
§23-70-117.**JURISDICTION.****Court of appeals.**

Public service commission.

Appeals of orders, §23-2-423.

Electric cooperative corporations.

Public service commission, §23-18-308.

Rates and charges.

Jurisdiction not affected,
§23-4-907.**Highways.**State highway and transportation
department.Actions by or against department,
§23-1-108.Interstate transportation services,
§23-2-303.

JURISDICTION —Cont'd**Highways —Cont'd**

State highway commission, §23-2-209.

Railroad crossings.

Construction and location,
§23-12-304.**Insurance.**

Delinquency proceedings, §23-68-103.

Holding companies.

Control of or merger with domestic
insurer.

Jurisdiction of courts, §23-63-512.

Motor carriers.

Transportation commission.

Injunctions.

Mandatory injunction that
commission take jurisdiction,
§23-13-209.

Violations of subchapter, §23-13-260.

Pipeline safety act.

Public service commission, §23-15-217.

Violations of provisions, §23-15-212.

Public service commission,

§§23-2-301, 23-2-302.

Actions by or against commission,
§23-1-108.

Appeals of orders.

Court of appeals, §23-2-423.

Electric cooperative corporations,
§§23-18-201, 23-18-308.

Federal aid.

Certain loans not within jurisdiction
of commission, §23-18-202.Intrastate transportation services,
§23-2-303.

Rate making.

Exclusive jurisdiction, §23-4-201.

Rural telecommunications
cooperatives, §23-17-206.**Public utilities.**

Navigable water crossings.

Public service commission,
§23-3-503.**Railroads.**

Crossings.

State highway commission.

Construction and location,
§23-12-304.

Livestock.

Killing or injuring.

Actions for damages, §23-12-909.

Rural telephone cooperatives.

Public service commission, §23-17-206.

Service of process.

General provisions.

See SERVICE OF PROCESS.

JURY.**Highways.**State highway and transportation
department.

Actions by or against department.

Trial without jury, §23-1-110.

Public service commission.

Actions by or against commission.

Tried without jury, §23-1-110.

Telephone and telegraph companies.

Damages for mental anguish.

Negligence in receiving,
transmitting or delivering
messages.Jury to award damages,
§23-17-112.**Water power companies.**

Eminent domain.

Assessment of compensation,
§23-18-406.**L****LABOR.****Professional employer****organizations,** §§23-92-401 to
23-92-419.See PROFESSIONAL EMPLOYER
ORGANIZATIONS.**LAND.**

See REAL PROPERTY.

LAND GRANTS.**Railroads.**

See RAILROADS.

LEASES.**Banks.**

Dissolution and liquidation.

Rejection of leases, §23-49-112.

Motor carriers.Insurance policies on leased motor
vehicles.Notice of cancellation or
termination, §23-13-104.Lessor to unauthorized person deemed
motor carrier, §23-13-259.**Motor vehicles.**

Lessors.

Unlawful practices, §23-112-404.

Railroads.

Sale or lease of road or property.

See RAILROADS.

Rural telephone cooperatives.

Authority of board, §23-17-231.

Trust companies.

Dissolution and liquidation.

Rejection of leases, §23-49-112.

LEGAL INSURANCE, §§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

LENDING INSTITUTIONS.**Building and loan associations.**

See BUILDING AND LOAN ASSOCIATIONS.

Industrial loan institutions.

See INDUSTRIAL LOAN INSTITUTIONS.

Savings and loan associations.

See SAVINGS AND LOAN ASSOCIATIONS.

LETTERS OF ATTORNEY.**Powers of attorney.**

General provisions.
See POWERS OF ATTORNEY.

LETTERS OF CREDIT.**Professional employer organizations.**

Letter of credit in lieu of bond,
§23-92-408.

LIABILITY.**Immunity generally.**

See IMMUNITY.

LICENSES.**Automobile clubs or associations.**

Agents, §23-77-108.

Checks.

Sale of checks act.
See CHECKS.

Continuing care providers.

General provisions, §§23-93-201 to 23-93-207.

See CONTINUING CARE PROVIDERS.

Employee leasing firms.

Issuance, §23-92-312.
Reciprocity, §23-92-310.
Refusal, suspension or revocation,
§§23-92-312, 23-92-313.
Renewal, §23-92-311.
Restricted out-of-state certificate,
§23-92-310.

Fraternal benefit societies.

Agents, §23-74-609.
Exceptions to requirement,
§23-74-609.
Fees, §23-74-603.
Foreign or alien societies.
Required for transacting business in
state, §23-74-605.
Suspension, revocation or refusal.
Grounds, §23-74-607.
Notice, §23-74-607.

LICENSES —Cont'd**Fraternal benefit societies —Cont'd**

Notice.

Foreign or alien societies.

Suspension, revocation or refusal,
§23-74-607.

Renewal, §23-74-603.

Suspension, revocation or refusal.

Foreign or alien societies,
§23-74-607.

Transacting business in state.

Required for, §23-74-603.

Greyhound racing.

See GREYHOUND RACING.

Health maintenance organizations.

Requirement, §23-76-106.

Horse racing.

See HORSE RACING.

Insurance.

See INSURANCE.

Legal insurance.

Agents, §23-91-219.

Mortgage bankers, brokers and servicers.

Generally, §§23-39-501 to 23-39-516.

See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

Motor carriers.

See MOTOR CARRIERS.

Motor vehicles.

Dealers, distributors, manufacturers
and salespersons.

See MOTOR VEHICLES.

Professional employer organizations.

Employer service assurance
organizations, §23-92-415.

Fees, §23-92-407.

Issuance, §23-92-410.

Requirement, §23-92-404.

Revocation or suspension, §23-92-410.

Transfer or assignment, §23-92-406.

Title insurance.

Agents, §§23-103-101 to 23-103-316.

See TITLE INSURANCE.

Viatical settlements.

Requirements, §23-81-603.

Revocation or denial, §23-81-604.

LIENS.**Continuing care providers.**

Bankruptcy or receivership of provider
resulting from financial
difficulties.

Resident's statutory lien on real and
personal property, §23-93-113.

Credit unions.

Shares.

Lien on shares, §23-35-501.

LIENS —Cont'd**Motor carriers.**

Fines and penalties, §23-13-263.

Public utilities.

Creation under supervision of
regulatory commissions,
§23-3-103.

Rural telephone cooperatives.

After acquired property, §23-17-232.

Savings and loan associations.

Savings accounts, §23-37-509.

LIEUTENANT GOVERNOR.**Railroads.**

Passes.

Permitted to accept and use pass,
§23-4-804.

**LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION,
§§23-96-101 to 23-96-121.**

Accounts and accounting.

Accident and health insurance
account.

Maintenance by association,
§23-96-109.

Life insurance and annuity account.

Maintenance by association,
§23-96-109.

Advertisement of act in insurance sales.

Prohibited, §23-96-105.

Applicability of chapter, §23-96-103.**Assessments.**

Member insurers, §23-96-115.

Assignment of rights, §23-96-114.**Benefits, §23-96-114.****Board of directors, §23-96-109.**

Assessment of member insurers,
§23-96-115.

Impairments or insolvencies.

Detection and prevention.

Procedure, §23-96-117.

Citation of chapter, §23-96-101.**Commissioner.**

Insolvencies or impairments.

Detection and prevention,
§23-96-117.

Powers and duties, §23-96-118.

Supervision and regulation,
§23-96-109.

Companies.

Board of directors, §23-96-109.

Assessment of member insurers,
§23-96-115.

Impairments or insolvencies,
detection and prevention.

Procedure, §23-96-117.

**LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION**

—Cont'd

Companies —Cont'd

Impaired insurers, §23-96-111.

Authority of association, §23-96-113.

Detection and prevention of
impairments, §23-96-117.

Distributions of ownership rights,
§23-96-119.

Insolvent insurers, §23-96-112.

Authority of association, §23-96-113.

Detection and prevention of
insolvencies, §23-96-117.

Distributions of ownership rights,
§23-96-119.

Premiums due after an order of
liquidation, §23-96-120.

Member insurers, §23-96-109.

Plan of operation.

Compliance, §23-96-116.

Construction and interpretation.

Applicability of chapter, §23-96-103.

Purpose of chapter, §23-96-102.

Scope of chapter, §23-96-106.

Created, §23-96-109.**Definitions, §23-96-104.****Delegation of authority.**

Plan of operation, §23-96-116.

Disclaimer.

Notice to policyholder, §23-96-105.

Duties.

Generally, §23-96-110.

**Examination by commissioner,
§23-96-109.**

Functions.

Generally, §23-96-109.

**General provisions, §§23-96-101 to
23-96-121.**

Immunity from liability, §23-96-108.**Impaired insurers, §23-96-111.**

Assessments, §23-87-115.

Authority of association, §23-96-113.

Detection and prevention of
impairments, §23-96-117.

Distributions of ownership rights,
§23-96-119.

Insolvent insurers, §23-96-112.

Authority of association, §23-96-113.

Detection and prevention of
insolvencies, §23-96-117.

Distributions of ownership rights,
§23-96-119.

Premiums due after an order of
liquidation, §23-96-120.

Legislative declaration.

Purpose of chapter, §23-96-102.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

—Cont'd

Liability.

- Benefits, §23-96-114.
- Immunity from liability, §23-96-108.
- Nonpayment of premiums.
 - Termination of association's obligations, §23-96-120.
- Reissuance of terminated coverage, §23-96-121.

Meetings.

- Open meetings, §23-96-109.

Member insurers, §23-96-109.

- Assessments, §23-96-115.
- Plan of operation.
 - Compliance, §23-96-116.
- Tax credits, §23-96-115.

Notice to policyholder, §23-96-105.

Plan of operation, §23-96-116.

Policies.

- Coverage, §23-96-107.
- Termination.
 - Nonpayment of premiums, §23-96-120.
 - Reissuance of terminated coverage, §23-96-121.
- Notice to policyholder.
 - Disclaimer, §23-96-105.
 - Summary document describing general purpose and current limitations of chapter, §23-96-105.
- Reissuance.
 - Terminated coverage, §23-96-121.

Powers.

- Exercisable through board of directors, §23-96-109.
- Generally, §23-96-110.

Premiums.

- Insolvent insurers.
 - Premiums due after an order of liquidation, §23-96-120.
- Nonpayment of premiums.
 - Effect, §23-96-120.
- Reissuance of terminated coverage, §23-96-121.

Premium taxes.

- Member insurers.
- Credits, §23-96-115.

Purpose of chapter, §23-96-102.

Records.

- Open records, §23-96-109.

Reports.

- Board of directors.
- Annual report, §23-96-109.

Scope of chapter, §23-96-106.

Subrogation rights, §23-96-114.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

—Cont'd

Tax credits.

- Member insurers, §23-96-115.

Tax exemption, §23-96-109.

Title of chapter, §23-96-101.

LIFE INSURANCE.

Agents.

- Excess or rejected business, §23-64-225.

Applicability of chapter, §23-81-102.

Beneficiaries.

- Unnamed beneficiaries.
- Prohibited, §23-81-120.

Benefits.

- Fixed amounts, §23-81-402.
- Payment in fixed and/or variable amounts, §23-81-402.
- Variable amounts, §23-81-402.

Certificates.

- Deposits.
 - Fees for certificate, §23-81-131.
- Policies.
 - Commissioner's certificate on policy, §23-81-131.

Claims.

- Interest on proceeds, §23-81-118.
- Payment, §23-81-113.
- Premiums to accompany proceeds, §23-81-118.

Construction of provisions, §23-81-118.

Contracts.

- Overwriting contract of life insurer, §23-66-313.

Defined, §23-62-102.

Deposits.

- Capital deposits may be credited, §23-81-135.
- Certificates.
 - Fee for certificate, §23-81-131.
- Duration and release of deposits, §23-63-912.
- Reserves, §23-81-130.
 - Deficiency of deposit, §23-81-136.
- Deposit of capital may be credited, §23-81-135.

Dividends.

- Policy provisions, §23-81-108.

Fees.

- Certificates, §23-81-131.
- Grace period, §23-81-104.

Group life insurance and annuities, §§23-83-101 to 23-83-126.

Holding of proceeds, §23-81-116.

Husband and wife.

- Married woman's right to insure husband's life, §23-79-128.

LIFE INSURANCE —Cont'd**Industrial life insurance.**

Applicability of chapter, §23-82-102.

Beneficiaries.

Policies.

Designation of beneficiary on policies, §23-82-114.

Benefits.

Nonforfeiture benefits, §23-82-110.

Definitions, §23-82-101.

Dividends.

Policies, §23-82-109.

Grace period, §23-82-105.

Policies.

Alteration.

Authority to alter contracts, §23-82-113.

Application of provisions to term and specified insurance, §23-82-103.

Applications.

Statements in application, §23-82-106.

Beneficiaries.

Designation, §23-82-114.

Cash surrender value, §23-82-110.

Contestability, §23-82-107.

Conversion, §23-82-116.

Dividends, §23-82-109.

Grace period, §23-82-105.

Incontestability, §23-82-107.

Misstatement of age, §23-82-108.

Nonforfeiture benefits, §23-82-110.

Offering, delivering or issuing for delivery in state.

Prohibited on or after January 1, 1988, §23-82-104.

Premiums.

Direct payment, §23-82-115.

Prohibited provisions, §23-82-118.

Reinstatement, §23-82-111.

Settlement, §23-82-112.

Title, §23-82-117.

Premiums.

Direct payment, §23-82-115.

Interest.

Claims, §23-81-118.

Premiums, §23-81-118.

Liabilities.

Limitation, §23-81-115.

Licenses.

Contracts.

Variable contracts.

Licensure requirements, §23-81-404.

LIFE INSURANCE —Cont'd**Life and health insurance guaranty association.**

Impaired insurers.

Assessments, §23-87-115.

Limitation of liability, §23-81-115.

Loans.

Policy loans, §23-81-109.

Indebtedness deducted from proceeds, §23-81-117.

Interest rate, §23-81-109.

Reinstatement provisions, §23-81-111.

Table of installments, §23-81-110.

Material transactions disclosures, §§23-63-1401 to 23-63-1406.

See INSURANCE.

Mutual assessment life and disability insurers, §§23-72-101 to 23-72-122.

See MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS.

Nonforfeiture law.

Applicability of law, §23-81-202.

Effective dates, §23-81-213.

Cash surrender value, §23-81-204.

Calculation in event of default, §§23-81-211, 23-81-212.

Citation of law.

Short title, §23-81-201.

Effective date, §23-81-213.

Exceptions to provisions, §23-81-202.

Paid-up benefits, §23-81-205.

Calculation, §23-81-205.

Premiums.

Calculation of adjusted premiums, §§23-81-206 to 23-81-210.

Future adjusted premiums, §23-81-210.

Industrial policies issued on or after effective date, §23-81-208.

Ordinary policies issued on or after effective date, §23-81-207.

Present values.

Calculation, §§23-81-206 to 23-81-209.

Industrial policies issued on or after effective date, §23-81-208.

Ordinary policies issued on or after effective date, §23-81-207.

Required provisions, §23-81-203.

Short title of law, §23-81-201.

LIFE INSURANCE —Cont'd**Nonforfeiture law —Cont'd**

Surrender of policies.

Cash surrender value, §23-81-204.

Calculation in event of default,

§§23-81-211, 23-81-212.

Required provisions, §23-81-203.

Title of law.

Short title, §23-81-201.

Policies.

Alterations.

Entire contract alterations,

§23-81-106.

Applications, §23-79-105.

Certificates.

Commissioner's certificate on policy,

§23-81-131.

Contestability, §23-81-105.

Dividends, §23-81-108.

Exceptions from Arkansas insurance code, §23-81-401.

Excluded or restricted coverage, §23-81-114.

Exemption of life insurance proceeds as to creditors, §23-79-131.

Grace period, §23-81-104.

Group life insurance.

Exemption of proceeds, §23-79-132.

Holding of proceeds, §23-81-116.

Incontestability, §23-81-105.

After reinstatement, §23-81-129.

Language simplification, §§23-80-201 to 23-80-208. See within this heading, "Policy language simplification."

Loans, §23-81-109.

Indebtedness deducted from

proceeds, §23-81-117.

Interest rates, §23-81-109.

Reinstatement provisions,

§23-81-111.

Table of installments, §23-81-110.

Married woman's right to insure

husband's life, §23-79-128.

Misstatement of age, §23-81-107.

Mutilated policies, §23-81-133.

Registered policies, §23-81-130.

Registration, §23-81-132.

Reinstatement.

Incontestability after reinstatement,

§23-81-129.

Reissuance, §23-81-133.

Reserves.

Maintenance of deposit, §23-81-134.

Restricted or excluded coverage, §23-81-114.

Standard provisions, §23-81-103.

Surrendered policies, §23-81-133.

LIFE INSURANCE —Cont'd**Policies —Cont'd**

Title, §23-81-101.

Valuation, §23-81-132.

Variable contracts, §23-81-403.

Authority to regulate variable contracts, §23-81-405.

Licensure requirements for delivery of variable contracts, §23-81-404.

Policy language simplification,

§§23-80-201 to 23-80-208.

Applicability, §23-80-204.

Citation of act, §23-80-201.

Company.

Defined, §23-80-203.

Construction, §23-80-205.

Insurer.

Defined, §23-80-203.

Minimum standards, §23-80-206.

Approval of forms, §23-80-208.

Authorization to use lower score, §23-80-207.

Policy or policy form.

Defined, §23-80-203.

Purpose, §23-80-202.

Premiums.

Claims.

Premiums to accompany proceeds, §23-81-118.

Construction of provisions, §23-81-118.

Interest on premiums, §23-81-118.

Payment, §23-81-112.

Proceeds.

Exemption of life insurance proceeds as to creditors, §23-79-131.

Registered policies, §23-81-130.**Reinstatement.**

Incontestability after reinstatement, §23-81-129.

Reserves.

Deposit of reserves, §23-81-130.

Capital deposits may be credited, §23-81-135.

Deficiency of deposit, §23-81-136.

Maintenance of deposits, §23-81-134.

Risk-based capital act, §§23-63-1301 to 23-63-1316.

See INSURANCE.

Scope of chapter, §23-81-102.**Terminated producers.**

Settlement with, §23-64-231.

Unfair competition and trade practices.

Business development compensation to life policyholders prohibited, §23-66-311.

LIFE INSURANCE —Cont'd**Unfair competition and trade practices —Cont'd**

Requirements when agent seeks to induce change of existing permanent life insurance coverage, §23-66-307.

Unnamed beneficiaries.

Prohibited, §23-81-120.

Valuation law for life insurance and annuities.

Actuarial opinion of reserves, §23-84-112.

Calculation of reserves, §§23-84-106 to 23-84-113.

Citation of law.

Short title, §23-84-101.

Commissioner of insurance.

Valuation of reserves by, §23-84-102.

Interest rates.

Minimum standard for valuation, §23-84-105.

Minimum standard for valuation, §§23-84-103 to 23-84-105.

Annuity contracts, §23-84-104.

Interest rates, §23-84-105.

Pure endowment contracts, §23-84-104.

Premiums.

Future premium determinations by life insurers, §23-84-113.

Reserves.

Actuarial opinion of reserves, §23-84-112.

Calculation, §§23-84-106 to 23-84-113.

Annuity contracts, §23-84-107.

Future premium determinations by life insurers, §23-84-111.

Life insurance policies and contracts, §23-84-110.

Minimum aggregate reserves for life insurance policies, §23-84-108.

Pure endowment contracts, §23-84-107.

Standards of valuation, §23-84-109.

Minimum aggregate reserves for certain life insurance policies, §23-84-108.

Valuation by commissioner, §23-84-102.

Rules and regulations, §23-84-113.

Standard for valuation.

Minimum standard, §§23-84-103 to 23-84-105.

LIFE INSURANCE —Cont'd**Valuation law for life insurance and annuities —Cont'd**

Title.

Short title, §23-84-101.

Viatical settlements, §§23-81-601 to 23-81-615.

See VIATICAL SETTLEMENTS.

LIGHT AND POWER COMPANIES.**Public utilities.**

General provisions.

See PUBLIC UTILITIES.

LIMITATION OF ACTIONS.**Banks.**

Dissolution and liquidation.

Notice of claims, §23-49-109.

Health insurance portability and accountability, §23-86-302.**Insurance.**

Policies.

Suits against insurers, §23-79-202.

Loan brokers.

Advance fee loan brokers.

Action for violations of subchapter, §23-39-405.

Railroads.

Discrimination.

Actions for damages, §23-4-705.

Actions to recover penalty, §23-10-103.

Freight.

Damages for violations of act, §23-10-431.

Rural telecommunications cooperatives.

Suits against telecommunications companies or cooperatives, §23-17-237.

Securities regulations.

Violation of provisions, §23-42-105.

Trust companies.

Dissolution and liquidation.

Notice of claims, §23-49-109.

LIQUIDATION.**Building and loan associations.**

Involuntary liquidation.

Loans repaid, §23-38-307.

Loans.

Repayment in voluntary or involuntary liquidation, §23-38-307.

Voluntary liquidation.

Loans repaid, §23-38-307.

Procedure, §23-38-301.

Fraternal benefit societies.

Domestic societies.

Grounds, §23-74-606.

Procedure, §23-74-606.

LIQUIDATION —Cont'd**Insurance.**

See INSURANCE.

Legal insurance.

Companies, §23-91-223.

LIVESTOCK.**Railroads.**

See RAILROADS.

LLOYDS INSURERS.**Insurance generally.**

See INSURANCE.

LOAN ASSOCIATIONS.**Building and loan associations.**

See BUILDING AND LOAN
ASSOCIATIONS.

LOANS.**Agriculture.**

Prepayment privileges for certain
borrowers.

Loans secured by liens on
agricultural lands, §23-32-203.

Banks.

Trust funds.

Loans to officers and employees
prohibited, §23-47-707.

Building and loan associations.

Authority to borrow money,
§23-38-215.

Conveyance of mortgaged property
acts as transfer of shares securing
loans, §23-38-212.

General provisions, §23-38-210.

Liquidation.

Repayment in voluntary or
involuntary liquidation,
§23-38-307.

Restrictions, §23-38-211.

Subscription for stock in corporation
created by act of congress as
condition of loan, §23-38-219.

Creditor-placed insurance,

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

Credit unions.

Commission or compensation for loan,
§23-35-802.

Credit committee.

Application for loan, §§23-35-306,
23-35-603.

Extensions of credit, §23-35-603.

Interest, §23-35-603.

Limitations, §23-35-603.

Prohibited actions, §23-35-803.

Restriction, §23-35-603.

LOANS —Cont'd**Criminal law and procedure.**

Prepayment privilege for loans secured
by agricultural liens.

Violations by lender, §23-32-203.

Fraternal benefit societies.

Benefit contracts.

Certificate loans, §23-74-405.

Industrial loan institutions.

General provisions, §§23-36-101 to
23-36-117.

See INDUSTRIAL LOAN
INSTITUTIONS.

Insurance.

Credit life and disability insurance,
§§23-87-101 to 23-87-119.

See CREDIT LIFE AND
DISABILITY INSURANCE.

Creditor-placed insurance,
§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

Generally.

See INSURANCE.

Misdemeanors.

Loans secured by liens on agricultural
lands.

Violation of prepayment privileges,
§23-32-203.

Mortgage bankers, brokers and servicers.

See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

Servicemen's Readjustment Act,

§23-32-205.

Trust companies.

Borrowing limits, §23-51-132.

Lending limits, §23-51-128.

LOCAL GOVERNMENTS.**Direct actions against insurer,**

§23-79-210.

Public utilities.

Environmental and economic
protection.

Powers of local governments,
§23-18-526.

LOCOMOTIVES.

See RAILROADS.

LODGES AND SOCIETIES.**Fraternal benefit societies.**

See FRATERNAL BENEFIT
SOCIETIES.

LOGS AND LOGGING.**Workers' compensation.**

Logging association policies,
§§23-67-311, 23-67-312.

LONG-TERM CARE FACILITIES AND ADMINISTRATORS.

Continuing care providers,

§§23-93-101 to 23-93-207.

See CONTINUING CARE
PROVIDERS.

Insurance.

Long-term care insurance.

General provisions, §§23-97-201 to
23-97-213.

See LONG-TERM CARE
INSURANCE.

Long-term care provider professional
liability insurance, §§23-91-301 to
23-91-309.

See LONG-TERM CARE
PROVIDER PROFESSIONAL
LIABILITY INSURANCE.

Long-term care insurance.

General provisions, §§23-97-201 to
23-97-213.

See LONG-TERM CARE
INSURANCE.

Malpractice insurance.

Long-term care provider professional
liability insurance, §§23-91-301 to
23-91-309.

See LONG-TERM CARE
PROVIDER PROFESSIONAL
LIABILITY INSURANCE.

Professional liability insurance.

Long-term care provider professional
liability insurance, §§23-91-301 to
23-91-309.

See LONG-TERM CARE
PROVIDER PROFESSIONAL
LIABILITY INSURANCE.

LONG-TERM CARE INSURANCE, §§23-97-201 to 23-97-213.

Advertising or marketing.

Compliance with subchapter.

Required, §23-97-205.

Applicability of subchapter, §23-97-204.

Certificate of insurance.

Definition of "certificate," §23-97-203.

Free look, §23-97-213.

Group long-term care insurance.

Contents of certificate, §23-97-212.

Preexisting conditions.

Coverage, §23-97-209.

Prior hospitalization or
institutionalization.

Conditions of coverage, §23-97-210.

Right to return, §23-97-213.

Citation of subchapter.

Short title, §23-97-201.

LONG-TERM CARE INSURANCE

—Cont'd

Commission.

Defined, §23-97-203.

Compliance with subchapter.

Required, §23-97-205.

Coverage.

General provisions, §23-97-208.

Outline of coverage, §23-97-211.

Preexisting conditions, §23-97-209.

Prior hospitalization or
institutionalization.

Conditions of coverage, §23-97-210.

Definitions, §23-97-203.

Disclosure standards, §23-97-208.

Group long-term care insurance.

Certificate of insurance.

Contents, §23-97-212.

Defined, §23-97-203.

Offering to resident in state under
group policy issued in another
state, §23-97-207.

Legislative declaration.

Purpose of subchapter, §23-97-202.

Performance standards, §23-97-208.

Policies.

Coverage.

General provisions, §23-97-208.

Preexisting conditions, §23-97-209.

Prior hospitalization or
institutionalization.

Conditions of coverage,
§23-97-210.

Defined, §23-97-203.

Free look, §23-97-213.

Preexisting conditions coverage,
§23-97-209.

Prior hospitalization or
institutionalization.

Conditions of coverage, §23-97-210.

Right to return, §23-97-213.

Preexisting conditions.

Coverage, §23-97-209.

Prior hospitalization or institutionalization.

Conditions of coverage, §23-97-210.

Purpose of subchapter, §23-97-202.

Rules and regulations.

Administrative procedure, §23-97-206.

Standards for long-term care
insurance.

Disclosure and performance
standards, §23-97-208.

Scope of subchapter, §23-97-204.

Standards.

Disclosure and performance,
§23-97-208.

LONG-TERM CARE INSURANCE

—Cont'd

Title of subchapter.

Short title, §23-97-201.

LONG-TERM CARE PROVIDER PROFESSIONAL LIABILITY INSURANCE, §§23-91-301 to 23-91-309.**Availability.**

Purpose of provisions, §23-91-301.

Coverages to be provided, §23-91-304.**Funding of plan, §23-91-305.****Governing board, §23-91-302.****Plan for insurance.**

Contents, §23-91-303.

Coverages to be provided, §23-91-304.

Funding, §23-91-305.

Immunity from liability, §23-91-307.

Information provided to individuals, §23-91-306.

Purpose of provisions, §23-91-301.

Termination, §23-91-309.

Rulemaking to implement provisions, §23-91-308.**Termination of plan, §23-91-309.****LOOKOUT LAW.****Railroads, §23-12-907.****LOW PROTEIN MODIFIED FOOD PRODUCTS.****Children with phenylketonuria.**

Definitions, §23-79-701.

Health insurance coverage, §23-79-703.

Income tax credit for family of child, §23-79-702.

LOYALTY.**Trustees, §23-51-204.****M****MAIL.****Aviation.**

Air commerce.

United States mail exempt from provisions, §23-14-103.

Insurance.

Holding companies.

Control of or merger with domestic insurer.

Mailings generally, §23-63-511.

MAJOR MEDICAL BENEFITS COVERAGE.**Individual health insurance coverage.**

Renewal of policy, exceptions, §23-79-119.

MAJOR UTILITY FACILITIES.**Environmental and economic protection, §§23-18-501 to 23-18-532.**

See PUBLIC UTILITIES.

MALPRACTICE.**Insurance rates, study and report on, §23-61-114.****Long-term care provider professional liability insurance, §§23-91-301 to 23-91-309.**

See LONG-TERM CARE PROVIDER PROFESSIONAL LIABILITY INSURANCE.

MAMMOGRAPHY.**Diagnostic mammography.**

Defined, §23-79-140.

Insurance.

Coverage for mammogram screening of occult breast cancer.

Promotion of health insurance coverage.

See CANCER.

Screening mammography.

Defined, §23-79-140.

MANAGED CARE.

See HEALTH MAINTENANCE ORGANIZATIONS.

MANDAMUS.**Carriers.**

Rates and charges.

Change in rates.

Petition, §23-4-633.

Continuing care providers.

Enforcement of chapter, §23-93-104.

Insurance.

Holding companies.

Acts or determinations of commissioner, §23-63-519.

Public utilities.

Rates and charges.

Change in rates.

Petition, §23-4-417.

Railroads.

Discrimination.

Enforcement of act, §23-4-719.

Savings and loan associations.

Enforcement of chapter by mandamus, §23-37-212.

Securities regulation.

Commissioner.

Enforcement of act by mandamus, §23-42-209.

MARINE INSURANCE.

Defined, §23-62-107.

MARRIAGE.**Annulment.****Insurance.**

Group and blanket health insurance.

Continuation of coverage upon
change in marital status,
§23-86-114.

MASTECTOMIES.**Health insurance.**

Required coverage, §23-99-405.

MATERNITY.**Health insurance.**

Obstetrical and gynecological services.

Required coverage, §23-99-406.

Required coverage, §23-99-404.

MEDICAL ASSISTANCE.**Medicare.**

See MEDICARE.

MEDICAL FACILITIES.**Health maintenance organizations.**

See HEALTH MAINTENANCE
ORGANIZATIONS.

MEDICALLY NECESSARY FOODS.**Children with phenylketonuria.**

Definitions, §23-79-701.

Health insurance coverage,
§23-79-703.

Income tax credit for family of child,
§23-79-702.

MEDICAL RECORDS.**Health maintenance organizations.**

Confidentiality of medical information,
§23-76-129.

**MEDICAL SERVICE
CORPORATIONS.****Hospital and medical service
corporations.**

See HOSPITAL AND MEDICAL
SERVICE CORPORATIONS.

MEDICARE.

Defined, §23-79-403.

Supplement insurance policies,

§§23-79-401 to 23-79-410.

Administrative procedures.

Regulations adopted pursuant to act,
§23-79-409.

Advertising.

Filing requirements, §23-79-408.

Applicability, §23-79-402.

Applicants.

Defined, §23-79-403.

Certificate forms.

Defined, §23-79-403.

Certificates.

Defined, §23-79-403.

Citation of title, §23-79-401.

MEDICARE —Cont'd**Supplement insurance policies****—Cont'd**

Definitions, §23-79-403.

Format, §23-79-406.

Disclosure standards, §23-79-406.

Effective date of coverage, §23-79-404.

Examination.

Notice of free examination,
§23-79-407.

Filing requirements for advertising,
§23-79-408.

Format.

Defined, §23-79-406.

Issuers.

Defined, §23-79-403.

Loss standard ratios, §23-79-405.

Medicare.

Defined, §23-79-403.

Noncompliance with act, §23-79-410.

Notice of free examination, §23-79-407.

Penalties.

Act noncompliance, §23-79-410.

Policy forms.

Defined, §23-79-403.

Rulemaking authority, §23-79-404.

Applicability of administrative
procedures, §23-79-409.

Scope, §23-79-402.

Standards for policy provisions,
§23-79-404.

Disclosure standards, §23-79-406.

Loss ratio standards, §23-79-405.

Rulemaking authority, §23-79-404.

Title of act, §23-79-401.

MEDICINE.**Prescriptions.**

See PRESCRIPTIONS.

MENTAL ANGUISH.**Telephone and telegraph companies.**

Receiving, transmitting or delivering
messages, §23-17-112.

MENTAL HEALTH.**Health insurance.**

Applicability, §23-99-509.

Definitions, §23-99-503.

Enforcement, §23-99-511.

Exclusions, §23-99-504.

Exemptions.

Increased costs, §23-99-505.

Group and blanket health insurance.

Minimum benefits, §23-86-113.

Intent of state, §23-99-502.

Medical necessity, §23-99-507.

Parity requirements, §23-99-506.

Policies.

Age requirement, §23-85-131.

Provisions permitted, §23-99-508.

MENTAL HEALTH —Cont'd**Health insurance —Cont'd**

Psychological examiner coverage,
§23-79-142.

Required coverage, §§23-99-501 to
23-99-511.

Rules and regulations, §23-99-510.
Short title, §23-99-501.

Insurance.

Health insurance.

Required coverage, §§23-99-501 to
23-99-511.

Rules and regulations.

Health insurance coverage,
§23-99-510.

Water power companies.

Eminent domain.

Proceedings against infants and
insane persons.

Guardian ad litem appointed,
§23-18-406.

MENTAL HEALTH PARITY ACT.**Health insurance required coverage,**

§§23-99-501 to 23-99-511.

See MENTAL HEALTH.

MERGER.**Banks.**

See BANKS.

Credit unions.

Procedure, §23-35-701.

Farmers' mutual aid associations,

§23-73-122.

Fraternal benefit societies,

§23-74-305.

Insurance.

Generally.

See INSURANCE.

Savings and loan associations.

Power of association, §23-37-705.

Trust companies, §§23-51-150 to

23-51-153.

Application, §23-51-151.

Approval of Commissioner, §23-51-152.

Articles of merger.

Application, §23-51-151.

Authority, §23-51-150.

Dissenters' rights, §23-51-153.

Effective date, §23-51-152.

Purchase of assets of another trust
company, §23-51-154.

MINORS.**Banks.**

Certificates of deposit.

Payments to minors, §23-47-306.

Deposits by minors, §23-47-202.

Loans to minors, §23-47-509.

MINORS —Cont'd**Banks —Cont'd**

Safe deposit boxes.

Leases to minors, §23-47-903.

Credit unions.

Shares in name of minor, §23-35-502.

Fraternal benefit societies.

Benefit contracts.

Issuance prior to attaining age of
majority.

Bound by terms, §23-74-404.

Children's preventive health care act.

Generally, §23-79-141.

Lodge system.

Organizing and operating lodges for
children, §23-74-102.

Greyhound racing.

Employment by franchise holders.

Prohibited, §23-111-308.

Patrons at race tracks.

Prohibited, §23-111-308.

Wagering.

Prohibited, §23-111-508.

Health insurance.

Children's preventive health care act,
§23-79-141.

Health maintenance organizations.

Children's preventive health care act,
§23-79-141.

Horse racing.

Wagering.

Prohibited for persons under 18,
§23-110-405.

**Hospital and medical service
corporations.**

Children's preventive health care act.
Generally, §23-79-141.

Insurance.

Children's preventive health care act,
§23-79-141.

Benefits, §23-79-141.

Coverage, §23-79-141.

Definitions, §23-79-141.

Periodic physical examination.

Coverage for, §23-79-141.

Defined, §23-79-141.

Policies, contracts, certificates or
plans.

Required provisions, §23-79-141.

Coverage of newborn infants included
in all policies covering insured's
family.

Minimum basic benefit policies,
§23-98-106.

General provisions.

See INSURANCE.

MINORS —Cont'd**Insurance —Cont'd**

Group and blanket health insurance.
Coverage.

Denial or restriction of coverage.
Certain policy provisions void,
§23-79-144.

Health care coverage.

Denial or restriction of coverage.
Certain policy provisions void,
§23-79-144.

Policies.

Coverage of newborn infants
included in all policies covering
insured's family.
Minimum basic benefit policies,
§23-98-106.

Safe deposit boxes.

Leases to minors, §23-47-903.

Savings and loan associations.

Savings accounts of minors,
§23-37-501.

Transfers to minors.

Financial institutions.
Agency designation on certificates of
deposit, §23-32-506.

Water power companies.

Eminent domain.
Proceedings against infants.
Guardian ad litem appointed,
§23-18-406.

MISDEMEANORS.

Air commerce regulations,
§23-14-104.

Amusement rides and attractions,
§23-89-504.

Safety of patrons, §23-89-514.

Automobile clubs or associations.

Failure to comply with provisions,
§23-77-103.

Aviation, §23-14-104.**Banks.**

Bank holding company violations,
§23-48-403.
Certification of check with insufficient
funds, §23-50-110.
Circulation of false rumors,
§23-50-104.
Falsification of records, §23-50-107.
Runs on banks.
Causing, §23-50-104.

Building and loan associations.

Annual reports.
Failure to file, §23-38-102.
False statements injurious to
association.
Circulation of, §23-38-404.

MISDEMEANORS —Cont'd**Building and loan associations —Cont'd**

Publication of false advertisement or
report of financial condition,
§23-38-402.

Burial associations.

Failure to comply with provisions,
§23-78-104.

False claim, promise or representation
of agent, §23-78-114.

False entries in books, §23-78-118.

False statements, §23-78-111.

Carriers, §23-16-201.

Agreements to pay charge for
additional mode of transportation,
§23-10-109.

Checks.

Sale of checks, §23-41-104.

Citizen's band radios.

Violations of restrictions on use of
equipment, §23-1-115.

Credit unions.

Officers, directors, etc.
Prohibited acts, §23-35-803.

Dog racing.

Failure to appear or testify at
hearings, §23-111-205.

Failure to comply with franchise,
§23-111-501.

False affidavits of officers and
directors, §23-111-406.

Issuance of sales tax-free passes,
§23-111-510.

Driving under the influence,
§23-13-258.

Financial institutions.

Loans secured by liens on agricultural
lands.
Violation of prepayment privileges,
§23-32-203.

Fraud.

Insurance holding companies,
§23-63-522.

Funeral benefits.

Sale of prepaid benefits, §23-40-106.

Annual report.

Failure to file, §23-40-119.

Failure to deposit contract proceeds,
§23-40-118.

Health maintenance organizations.

Willful violations of chapter,
§23-76-105.

Horse racing.

Compliance with license, §23-110-401.

Failure to appear or testify at
hearings, §23-110-205.

Failure to pay tax, §23-110-415.

MISDEMEANORS —Cont'd**Horse racing —Cont'd**

False application for employment,
§23-110-308.

Issuance of sales tax-free passes,
§23-110-411.

Insurance.

Advertising by health and accident
insurers and prepaid health plans,
§23-66-316.

Disclosure of confidential information,
§23-66-315.

Domestic stock and mutual insurers.

Unauthorized dividends, §23-69-131.

Holding companies, §23-63-522.

Inducement to forfeit, surrender, etc.,
other policies, §23-66-307.

Intoxication.

Driving while intoxicated, §23-13-258.

Loans.

Loans secured by liens on agricultural
lands.

Violation of prepayment privileges,
§23-32-203.

Motor carriers, §§23-13-257, 23-13-401.

Alcoholic beverages.

Operation while consuming or under
influence of, §23-13-258.

Carrier's responsibility for seating,
§23-13-406.

Operation without certificate or
permit, §23-13-234.

Passengers, §23-13-401.

Passenger's failure to take assigned
seat, §23-13-406.

Rest periods and hours of duty of
drivers, §23-13-101.

**Motor vehicle manufacturers,
dealers, etc.**

Failure to obtain a license,
§23-112-301.

Public service commission, §23-2-409.

Service of process, §23-2-405.

Railroads.

Access to railroad books by
commissioners, §23-4-718.

Announcements of departures,
destinations and track numbers,
§23-10-205.

Bulletin boards showing arrival and
departure times, §23-10-203.

Business solicitations of passengers,
§23-10-208.

Express offices and delivery,
§23-10-302.

Extra pay to employees for furnishing
car to shipper, §23-10-429.

MISDEMEANORS —Cont'd**Railroads —Cont'd**

Livestock or poultry.

Shipper's pass, §23-10-441.

Operation and maintenance.

Animals killed on railroad,
§23-12-806.

Caboose cars, §23-12-403.

Engines, §23-12-401.

Establishment, discontinuance or
modification of service,
§23-12-609.

First aid kits and drinking water,
§23-12-405.

Improper language in waiting rooms
or cars, §23-12-801.

Intoxication of engineer or
conductor, §23-12-807.

Killing or injuring livestock,
§23-12-911.

Maintenance of way employees.

Drinking water furnished,
§23-12-511.

Shelters, §23-12-513.

Trespassers boarding trains,
§23-12-802.

Unsafe tracks, bridges, etc.,
§23-12-103.

Willful interference with railroads,
§23-12-805.

Passenger trains to depart from depot
at junction, §§23-10-204,
23-10-206.

Protection of passengers, §23-10-207.

Rates and charges, §23-4-605.

False reports regarding receipt of
money, §23-4-636.

Schedule of rates, §23-4-604.

State officers accepting pass,
§23-4-803.

Securities.

Offer or sale of unregistered and
nonexempt securities, §23-42-104.

Sale of unregistered or nonexempt
securities, §23-42-104.

Violation of rule or order of
commissioner, §23-42-104.

Telephone and telegraph companies.

Divulging contents or refusal to
transmit message, §23-17-109.

Interception of message, §23-17-107.

Overcharge by operators, §23-17-111.

Priority of dispatch of messages,
§23-17-106.

Willful destruction of telephone pole or
other equipment, §23-17-107.

MISDEMEANORS —Cont'd**Title insurance.**

Agent licenses.

Criminal enforcement of provisions,
§23-103-103.**Transportation carriers, §23-16-201.****Trust companies.**

Acquisition violations, §23-51-139.

MISREPRESENTATION.**Insurance.**

Policies.

Recovery under policy or contract,
§23-79-107.**Securities regulations.**Unlawful acts by investment advisers,
§23-42-307.**MONEY ORDERS.****Defined, §23-41-102.****MONOPOLIES AND RESTRAINT OF TRADE.****Railroads.**

Control of parallel or competing line.

Contracts for acquisition void,
§23-11-311.

Prohibited, §23-11-311.

MOON WALKS.**Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

MORTGAGE BANKERS, BROKERS AND SERVICERS, §§23-39-501 to 23-39-516.**Abandoned and terminated license.**Untimely renewal of license,
§23-39-506.**Acquiring control of licensee, §23-39-506.****Advance fee loan brokers.**

Actions, §23-39-405.

Attorneys' fees.

Action for violation of subchapter,
§23-39-405.

Criminal law and procedure.

Violation of subchapter, §23-39-405.

Definitions, §23-39-401.

Injunctions.

Violation of subchapter, §23-39-405.

Limitation of actions.

Action for violation of subchapter,
§23-39-405.

Loan brokers principal.

Liability, §23-39-403.

Nonexclusive remedy, §23-39-402.

Penalties for violation of subchapter,
§23-39-405.**MORTGAGE BANKERS, BROKERS AND SERVICERS —Cont'd****Advance fee loan brokers —Cont'd**

Principals.

Liability, §23-39-403.

Prohibited acts.

Advance fees, §23-39-404.

Deceptive practices, §23-39-404.

Prohibition generally, §§23-39-401 to
23-39-405.

Remedies generally, §23-39-402.

Violations of subchapter, §23-39-405.

Advertising.

Prohibited activities, §23-39-513.

Application for licensure, §23-39-505.

Renewal, §23-39-506.

Branch managers.Required to operate branch office,
designation, change, notice,
§23-39-508.**Branch office.**Separate license from principal office,
§23-39-505.**Cease and desist orders, §23-39-514.****Change of location of office where files maintained.**Notice, failure to give, fine,
§23-39-509.**Civil penalties, §23-39-514.****Commissions, fees, compensation.**

Prohibited activities, §23-39-513.

Consumer claims.Priority in recovering on bond,
§23-39-505.**Continuing education, §23-39-507.****Correcting amendment to information filed.**Duty to file, fine for failure,
§23-39-511.**Crimes and criminal penalty, §23-39-516.****Definitions, §23-39-502.****Denial, suspension, revocation or refusal to issue license, §23-39-514.****Discipline of licensee, §23-39-514.****Dishonest or unethical practices, §23-39-513.****Duties of licensees, §23-39-510.****Escrow or trust account.**Duty to maintain separate account,
§23-39-511.**Examination of business, §23-39-514.****Exempt persons from license requirement, §23-39-502.****Experience requirements, §23-39-505.****Fair mortgage lending act.**

Title of act, §23-39-501.

False promise, §23-39-513.

**MORTGAGE BANKERS, BROKERS
AND SERVICERS —Cont'd****Filing fee, §23-39-505.****Financial statements.**Applicant for license, filing,
§23-39-505.

Renewal of license, §23-39-506.

**Investigation or examination of
loans or business, §23-39-514.****Late fee.**Untimely renewal of license,
§23-39-506.**License required, §23-39-503.****List of applicants for license.**Securities commissioner to keep,
§23-39-511.**List of loan officers employed.**Banker or broker to maintain,
§23-39-503.**Managing principal.**Required to operate business,
designation, change, notice,
§23-39-508.**Misrepresentation or concealment of
material fact, §23-39-513.****Notice of change in managing
principal or branch manager,
§23-39-508.****Notice that loan officer's
employment terminated.**Requirement, failure to give fine,
§23-39-503.**Prepayment penalty, §23-39-513.****Principal office.**Required to maintain, §23-39-509.
Separate license from branch,
§23-39-505.**Prohibited activities, §23-39-513.**Crimes and criminal penalty,
§23-39-516.**Public inspection of records,
§23-39-512.****Qualifications for licensure,
§23-39-505.****Real estate appraisals.**

Prohibited activities, §23-39-513.

Records, §23-39-509.

Public inspection, §23-39-512.

Refinancing mortgage.Charging addition fees and points,
§23-39-513.**Renewal of license.**Continuing education, §23-39-507.
Fee, §23-39-506.**Review of order of securities
commissioner, §23-39-515.****MORTGAGE BANKERS, BROKERS
AND SERVICERS —Cont'd****Roster of names and places of
businesses.**Securities commissioner to keep,
§23-39-511.**Rules, promulgation by securities
commissioner, §23-39-504.****Satisfaction or release.**

Refusal to issue, §23-39-513.

Subpoenas.Investigation or examination of loans
or business, §23-39-514.**Summary postponement or
suspension of license.**Pending outcome of disciplinary
proceeding, §23-39-514.**Surety bond, §23-39-505.****Termination of loan officer's license.**Termination of employment with
banker or broker, §23-39-503.**Transfer of license, §23-39-506.****Unlawful to act without license,
§23-39-503.****MORTGAGES AND DEEDS OF
TRUST.****Abusive lending.**

High-cost home loans.

Home loan protection act,
§§23-53-101 to 23-53-106.**Actions.**

Home loan protection act.

High-cost home loans.

Liability for violations,
§23-53-106.**Advance payments.**

Home loan protection act.

Prohibition, §23-53-104.

Arbitration.

Home loan protection act.

High-cost home loans.

Mandatory arbitration clause,
prohibition, §23-53-104.**Attorneys' fees.**

Home loan protection act.

High-cost home loans.

Liability for violations,
§23-53-106.**Balloon payment.**

Home loan protection act.

Prohibition, §23-53-104.

Bankers, brokers and servicers.Licensing and regulation generally,
§§23-39-501 to 23-39-516.See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

MORTGAGES AND DEEDS OF TRUST —Cont'd

Banks.

- Casualty insurance.
- Replacement cost coverage only, §23-47-510.
- Sale of certain mortgage loans, §23-47-506.

Building and loan associations.

- Conveyance of mortgaged property acts as transfer of shares securing loan, §23-38-212.

Call provision.

- Home loan protection act.
- Prohibition, §23-53-104.

Casualty insurance.

- Bank mortgage loans.
- Replacement cost coverage only, §23-47-510.
- Financial institution requirements, §23-32-206.

Costs.

- Home loan protection act.
- High-cost home loans.
- Liability for violations, §23-53-106.

Damages.

- Home loan protection act.
- High-cost home loans.
- Liability for violations, §23-53-106.

Flipping, prohibition.

- Home loan protection act, §23-53-104.

Foreclosure.

- Home loan protection act.
- High-cost home loans.
- Asserting violation by borrower in default, §23-53-105.

High-cost home loans, §§23-53-101 to 23-53-106.

- Advance payments, prohibition, §23-53-104.
- Assignees, liability, §23-53-105.
- Attempt to avoid act, §23-53-105.
- Balloon payment, prohibition, §23-53-104.
- Call provision, prohibition, §23-53-104.
- Corrections, unintended violations, §23-53-106.
- Counseling, lending without, §23-53-104.
- Default, recommending, §23-53-104.
- Definitions, §23-53-103.
- Flipping, §23-53-104.
- Enforcement of claims, §§23-53-105, 23-53-106.
- Fee for transmitting balance due, prohibition, §23-53-104.

MORTGAGES AND DEEDS OF TRUST —Cont'd

High-cost home loans —Cont'd

- Flipping, prohibition, §23-53-104.
 - Foreclosure, asserting violation, §23-53-105.
 - Home improvements contracts.
 - Paying contractor from proceeds of loan, §23-53-104.
 - Insurance debt collection agreements, prohibition, §23-53-104.
 - Interest rate increase after default, prohibition, §23-53-104.
 - Legislative intent, §23-53-102.
 - Liability for violations, §23-53-106.
 - Mandatory arbitration clause, prohibition, §23-53-104.
 - Modification or deferral fees, prohibition, §23-53-104.
 - Negative amortization, prohibition, §23-53-104.
 - Prepayment fees or penalties, prohibition, §23-53-104.
 - Preservation of claims, §23-53-105.
 - Prohibited acts and practices, §23-53-104.
 - Purchasers of loans, liability, §23-53-105.
 - Repayment ability, lending without regard to, §23-53-104.
 - Rescission for violations, §23-53-106.
 - Subterfuge, §23-53-105.
 - Title of act, §23-53-101.
 - Unconscionable or deceptive act, violations, §23-53-106.
- ### **Home loan protection act.**
- High cost home loans, §§23-53-101 to 23-53-106.

Insurance.

- Investments, §§23-63-826, 23-63-827.

Points and fees.

- High cost home loans.
- Home loan protection act, §§23-53-101 to 23-53-106.

Prepayment fees or penalties.

- Home loan protection act.
- High-cost home loans, prohibition, §23-53-104.
- Mortgage bankers, brokers and servicers, restrictions, §23-39-513.

Rural telephone cooperatives.

- Power to mortgage property, §23-17-231.
 - Recordation, §23-17-232.
- ### **Sale of certain mortgage loans, §23-32-204.**

MOTIONS.**Injunctions.**

Modification or dissolution.

General provisions.

See INJUNCTIONS.

MOTOR CARRIERS.**Alcoholic beverages.**

Operation while consuming or under influence of, §23-13-258.

Appeals.

Orders of state highway and transportation department, §23-13-211.

Complaints against carriers, §23-13-308.

Filing fees, §23-13-215.

Notice, §23-13-212.

Stay of operating authority pending appeal, §23-13-213.

Transcript, §23-13-214.

Arrest.

Enforcement officers, §23-13-217.

Passengers.

Numbered seating and aisle spaces.

Occupation of space not assigned, §23-13-405.

Refusal to take assigned seat, §23-13-406.

Bills of lading, §23-13-252.**Bonds, surety.**

Employees of carriers generally, §§23-16-201 to 23-16-207.

See CARRIERS.

Forfeited bonds.

Disposition, §23-13-264.

Protection of public, §23-13-227.

Brokers.

Licenses, §23-13-230.

Certificates of public convenience and necessity.

Amendment, §23-13-233.

Application, §23-13-219.

Fees, §23-13-219.

Bonds, surety.

Required, §23-13-227.

Conditions, §23-13-221.

Effective date, §23-13-231.

Fees.

Transfer, §23-13-232.

Hearings, §23-13-220.

Issuance, §23-13-220.

Operation without.

Penalties, §23-13-234.

Permits.

Dual operation under certificate and permit prohibited, §23-13-226.

Required, §23-13-218.

MOTOR CARRIERS —Cont'd**Certificates of public convenience and necessity —Cont'd**

Revocation, §23-13-233.

Complaints against carriers, §23-13-307.

Suspension, §23-13-233.

Terms, §23-13-221.

Transfers, §23-13-232.

Common carriers.**Advantages.**

Unreasonable advantages prohibited, §23-13-237.

Duties.

Generally, §23-13-236.

Preferences.

Unreasonable preferences prohibited, §23-13-237.

Provisions cumulative, §23-13-243.

Rates and charges.

Collection, §23-13-251.

Complaints, §23-13-238.

State highway and transportation department.

Determination by, §23-13-239.

Hearings, §23-13-241.

Joint rates and charges.

Establishment and division, §23-13-240.

Just and reasonable, §§23-13-236, 23-13-237.

Factors, §23-13-242.

Tariffs, §23-13-244.

Complaints against carriers.**Contract carriers.**

Contents, §23-13-248.

Definitions, §23-13-301.

"Commission," §23-13-301.

"Commissioner," §23-13-301.

"Motor vehicle," §23-13-301.

"Person," §23-13-301.

Rates and charges.

Common carriers, §23-13-238.

State highway and transportation department.

Determination by, §23-13-239.

Revocation of license, permit or certificate, §23-13-307.

Service of process, §23-13-304.

State highway and transportation department.

Commencement of action before department, §23-13-303.

Contract carriers.

Contents, §23-13-248.

Definition of "commission," §23-13-301.

Duties generally, §23-13-208.

MOTOR CARRIERS —Cont'd**Complaints against carriers —Cont'd**

State highway and transportation department —Cont'd

Hearing.

Time and place, §23-13-305.

Orders.

Enforcement, §23-13-309.

Time for taking effect, §23-13-306.

Powers as to witnesses and records, §23-13-302.

Rates and charges.

Common carriers.

Action by department on,

§23-13-239.

Subpoenas, §23-13-302.

Enforcement, §23-13-309.

Witnesses.

Payment of witness fees, §23-13-310.

Powers of state highway and transportation department, §23-13-302.

Subpoenas, §23-13-302.

Enforcement, §23-13-309.

Contract carriers.

Contracts, §23-13-225.

Permits.

Required, §23-13-222.

Rates and charges.

Schedules.

Adherence to schedule required, §23-13-246.

Establishment by state highway and transportation department, §23-13-250.

Filing, posting and publishing, §23-13-245.

Hearing, §23-13-249.

Notice of proposed changes, §23-13-247.

Required, §23-13-245.

Suspension proceedings, §23-13-249.

Controlled substances.

Operation while in possession of, consuming or under influence of, §23-13-258.

Definitions, §23-13-204.

Complaints against carriers.

"Commission," §23-13-301.

"Commissioner," §23-13-301.

"Motor vehicle," §23-13-301.

"Person," §23-13-301.

Motor carrier act of 1955.

Bona fide taxi cab service, §23-13-206.

MOTOR CARRIERS —Cont'd**Drivers.**

Hours of duty and rest periods.

Exceptions, §23-13-101.

Generally, §23-13-101.

Penalty for violations, §23-13-101.

Misdemeanors.

Hours of duty and rest periods.

Violations of provisions, §23-13-101.

Drugs.

Operation under influence of controlled substances, §23-13-258.

Drunkenness.

Prohibited act, §23-13-258.

Employees of carriers.

Bonds, surety of employees of carriers, §§23-16-201 to 23-16-207.

See CARRIERS.

Fees.

Annual fee collected from carriers, §§23-16-101 to 23-16-106.

See CARRIERS.

Annual fees charged carriers, §23-13-235.

Certificates of public convenience and necessity.

Application fee, §23-13-219.

Transfer, §23-13-232.

Exempt carriers.

Insurance filing fee, §23-13-265.

Permits.

Application fees, §23-13-223.

Transfer, §23-13-232.

Temporary authority, §23-13-229.

Financial incentive program,

§§23-13-501 to 23-13-506.

Hearings.

Certificates of public convenience and necessity, §23-13-220.

Common carriers.

Rates and charges, §23-13-241.

Permits.

Prerequisite to issuance, §23-13-224.

State highway and transportation department, §23-13-210.

Certificates of public convenience and necessity, §23-13-220.

Complaints against carriers.

Time and place of hearing, §23-13-305.

Notice, §23-13-210.

Service, §23-13-216.

Permits.

Prerequisite to issuance, §23-13-224.

Identification of vehicles, §23-13-256.

MOTOR CARRIERS —Cont'd**Injunctions.**

State highway and transportation department.

Jurisdiction.

Mandatory injunction that agency take jurisdiction, §23-13-209.

Violation of subchapter, §23-13-261.

Inspection of documents, §23-13-217.**Inspections.**

State highway and transportation department, §23-13-102.

Insurance.

Leased motor vehicles.

Cancellation or termination of insurance policies on.

Notice, §23-13-104.

Uninsured motorist liability insurance.

General provisions, §§23-16-301 to 23-16-304.

See CARRIERS.

Interstate commerce.

Applicability of provisions to interstate or foreign commerce, §23-13-228.

Motor carrier act of 1955 not to affect, §23-13-205.

Jurisdiction.

State highway and transportation department.

Injunctions.

Mandatory injunction that agency take jurisdiction, §23-13-209.

Violations of subchapter, §23-13-260.

Leases.

Insurance policies on leased motor vehicles.

Notice of cancellation or termination, §23-13-104.

Lessor to unauthorized person deemed motor carrier, §23-13-259.

Licenses.

Amendment, §23-13-233.

Brokers, §23-13-230.

Effective date, §23-13-231.

Operation without.

Penalty, §23-13-234.

Revocation, §23-13-233.

Complaints against carriers, §23-13-307.

Suspension, §23-13-233.

Transfers, §23-13-232.

Liens.

Fines and penalties, §23-13-263.

Misdemeanors.

Drivers.

Hours of duty and rest periods.

Violations of provisions, §23-13-101.

MOTOR CARRIERS —Cont'd**Misdemeanors —Cont'd**

Passengers.

Violation of provisions, §23-13-401.

Unlawful operations, §23-13-257.

Motor carrier act of 1955.

Applicability of subchapter, §23-13-204.

Citation of act.

Short title, §23-13-201.

Definitions, §23-13-203.

Bona fide taxi cab service, §23-13-206.

Exemptions, §23-13-206.

Documents required to be in possession of exempt carrier, §23-13-265.

General provisions, §§23-13-201 to 23-13-265.

Interstate commerce.

Unaffected by act, §23-13-205.

Legislative declaration, §23-13-202.

Purpose of act, §23-13-202.

Title of act.

Short title, §23-13-201.

Motorcoach incentive act,

§§23-13-501 to 23-13-506.

Municipal corporations.

Taxation.

Prohibited, §23-13-103.

Notice.

Appeals.

State highway and transportation department.

Orders of department, §23-13-212.

Hearings.

State highway and transportation department, §23-13-210.

Insurance policies on leased motor vehicles.

Notice of cancellation or termination, §23-13-104.

Out of service, placing vehicle and operator.

Powers of enforcement officers, §23-13-217.

Passengers.

Assigned seats, §23-13-404.

Failure to enforce seating assignment, §23-13-406.

Occupation of space not assigned, §23-13-405.

Passengers to take, §23-13-406.

Refusal to take.

Arrest, §23-13-406.

Penalty, §23-13-406.

Removal, §23-13-406.

MOTOR CARRIERS —Cont'd**Passengers —Cont'd****Assigned seats —Cont'd**

Refusal to move after tender of fare paid, §23-13-405.

Refusal to take assigned seat or leave vehicle, §23-13-406.

Liability.

Operators to passengers, §23-13-402.

Misdemeanors.

Violation of provisions, §23-13-401.

Numbered seating and aisle spaces.**Arrest.**

Violations of provisions, §23-13-405.

Assignment, §23-13-404.

Occupation of space not assigned unlawful, §23-13-405.

Required, §23-13-403.

Penalties.

Violation of provisions, §23-13-401.

Penalties.

Action to recover, §23-13-262.

Disposition, §23-13-264.

Lien for, §23-13-263.

Passengers.

Violation of provisions, §23-13-401.

Unlawful operation generally, §§23-13-234, 23-13-257.

Permits.

Amendment, §23-13-233.

Applications, §23-13-223.

Fees, §23-13-223.

Bonds, surety.

Required, §23-13-227.

Certificates of public convenience and necessity.

Dual operation under certificate and permit prohibited, §23-13-226.

Conditions, §23-13-225.

Effective date, §23-13-231.

Fees.

Application fees, §23-13-223.

Transfer, §23-13-232.

Hearings.

Prerequisite to issuance, §23-13-224.

Issuance, §23-13-224.

Operation without.

Penalty, §23-13-234.

Required.

Contract carrier, §23-13-222.

Revocation, §23-13-233.

Complaints against carriers, §23-13-307.

Suspension, §23-13-233.

Terms, §23-13-225.

Transfer, §23-13-232.

MOTOR CARRIERS —Cont'd**Poultry.**

Motor carrier act of 1955.

Exemptions, §23-13-206.

Documents required to be in possession of exempt carrier, §23-13-265.

Rates and charges.

Common carriers, §23-13-244.

Collection, §23-13-251.

Hearings, §23-13-241.

Joint rates and charges.

Establishment and division, §23-13-240.

Just and reasonable, §§23-13-236, 23-13-237.

Factor, §23-13-242.

Provisions cumulative, §23-13-243.

Complaints against carriers.

Common carriers, §23-13-238.

State highway and transportation department.

Determination by, §23-13-239.

Contract carriers.**Schedules.**

Adherence to schedule required, §23-13-246.

Establishment by state highway and transportation department, §23-13-250.

Filing, posting and publishing, §23-13-245.

Hearing, §23-13-249.

Notice of proposed changes, §23-13-247.

Required, §23-13-245.

Suspension proceedings, §23-13-249.

Just and reasonable, §§23-13-236, 23-13-237.

Receipts, §23-13-252.**Registration.**

Fee, §23-13-235.

Right of entry.

State highway and transportation department, §23-13-255.

Rules and regulations.

State highway and transportation department.

Protection of public, §23-13-230.

Safety inspections.

Powers of enforcement officers, §23-13-217.

Service of process.

Agent for service, §23-13-216.

Complaints against carriers, §23-13-304.

MOTOR CARRIERS —Cont'd**State highway and transportation department.****Appeals.**

- Orders of department, §23-13-211.
- Filing fees, §23-13-215.
- Notice, §23-13-212.
- Stay of operating authority pending appeal, §23-13-213.
- Transcript, §23-13-214.

Arrest.

- Enforcement officers.
- Authority, §23-13-217.

Complaints against carriers.

- Commencement of action before agency, §23-13-303.
- Contract carriers.
- Contents, §23-13-248.

- Definition of "commission," §23-13-301.

- Duties of department generally, §23-13-208.

Hearing.

- Time and place, §23-13-305.

Orders.

- Enforcement, §23-13-309.
- Time for taking effect, §23-13-306.

- Powers as to witnesses and records, §23-13-302.

- Subpoenas, §23-13-302.

- Enforcement, §23-13-309.

Duties.

- Generally, §23-13-208.

Enforcement officers.

- Authority, §23-13-217.
- Designation, §23-13-217.
- Powers, §23-13-217.

Hearings, §23-13-210.

- Certificates of public convenience and necessity, §23-13-220.

- Complaints against carriers.
- Time and place of hearing, §23-13-305.

Notice.

- Service, §23-13-216.

Permits.

- Prerequisite to issuance, §23-13-224.

Injunctions.

- Mandatory injunction requiring department to take jurisdiction, §23-13-209.

Inspection of licensee, §23-13-102.**Jurisdiction.****Injunctions.**

- Mandatory injunction that department take jurisdiction, §23-13-209.

MOTOR CARRIERS —Cont'd**State highway and transportation department —Cont'd****Notice.**

- Hearings, §23-13-210.
- Regulation by department, §23-13-207.
- Right of entry, §23-13-255.
- Rules and regulations.
- Protection of public, §23-13-230.
- Subpoenas, §23-13-210.
- Complaints against carriers, §§23-13-302, 23-13-309.

Subpoenas.

- State highway and transportation department, §23-13-210.
- Complaints against carriers, §§23-13-302, 23-13-309.

Taxation.

- Municipalities may not tax, §23-13-103.

Taxicabs.

- Motor carrier act of 1955.
- Exemptions, §23-13-206.
- Bona fide taxi cab service.
- Defined, §23-13-206.
- Documents required to be in possession of exempt carrier, §23-13-265.

Temporary authority.

- Extension prohibited, §23-13-229.
- Fees, §23-13-229.
- When authorized, §23-13-229.

Vehicles.

- Identification, §23-13-256.

Violation of subchapter.

- Action to recover, §23-13-262.
- Injunctions, §23-13-261.
- Jurisdiction of cases, §23-13-260.

MOTOR CLUBS.

See AUTOMOBILE CLUBS OR ASSOCIATIONS.

MOTORCOACH INCENTIVE ACT,

§§23-13-501 to 23-13-506.

Definitions, §23-13-503.**Fund, §23-13-506.****Incentive payment.**

- Amount, §23-13-504.
- Application, §23-13-505.

Legislative determinations, §23-13-502.**Short title, §23-13-501.****MOTOR VEHICLE INSURANCE.****Bodily injury minimum coverage limits, §23-89-403.****Casualty insurance.**

- Generally.
- See CASUALTY INSURANCE.

MOTOR VEHICLE INSURANCE

—Cont'd

Driver other than insured in accident.

Converting limits downward.

Prohibition on stepdowns,
§23-89-214.

Commercial lines, §23-79-312.

Extraterritorial provisions.Liability insurance coverage,
§23-89-212.

Commercial lines, §23-79-311.

Premiums.

Delinquencies, §23-89-213.

Rental vehicles.Limited license for rental companies,
§23-64-202.**Safety responsibility.**

College graduates.

Premium reduction for, §23-89-210.

Stepdowns.

Prohibited, §23-89-214.

Commercial lines, §23-79-312.

Total loss settlements, §23-89-211.**Underinsured motorists, §23-89-209.**Annual report by insurers,
§23-63-1202.Setoffs or reduction of recovery,
§23-89-403.**Uninsured motorists.**

Casualty insurance.

Bodily injury coverage, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.Subrogation of insurer making
payment, §23-89-405.**MOTOR VEHICLES.****Advertising.**

Used motor vehicle dealers.

Requirements for printed
advertisements, §23-112-610.**Appeals.**

Licenses.

Dealers, distributors, manufacturers
and salespersons.Denial, revocation or suspension
of license, §23-112-506.**Associations.**Automobile clubs or associations,
§§23-77-101 to 23-77-109.See AUTOMOBILE CLUBS OR
ASSOCIATIONS.**MOTOR VEHICLES —Cont'd****Bonds, surety.**Dealers, distributors, manufacturers
and salespersons.

Licenses, §23-112-302.

Used motor vehicle buyers
protection, §23-112-607.**Brokers.**

Acting as broker.

Unlawful, §23-112-406.

**Buyer referral services, plans, clubs,
etc., §23-112-406.****Casualty insurance generally.**

See CASUALTY INSURANCE.

**Clubs or associations, §§23-77-101 to
23-77-109.**See AUTOMOBILE CLUBS OR
ASSOCIATIONS.**Damages.**

Licenses.

Dealers, distributors, manufacturers
and salespersons.Pecuniary loss from failure to
comply with provisions,
§23-112-105.**Dealers.**Damage to motor vehicles while in
transit.

Delivery to dealer.

Damage after.

Disclosure to consumer,
§23-112-706.

Damage prior to.

Computing time, §23-112-704.

Disclosure to consumer,
§23-112-705.

Failure to repair, §23-112-703.

Notice, §23-112-702.

When accomplished, §23-112-701.

Indemnification of franchised
dealers.Manufacturer required to
indemnify, §23-112-707.

Defined, §23-112-103.

Unlawful practices, §23-112-402.

Used motor vehicle buyers protection.

General provisions, §§23-112-601 to
23-112-612. See within this
heading, "Used motor vehicle
buyers protection."**Definitions.**Automobile clubs or associations,
§23-77-101.Motor vehicle commission,
§23-112-103.

Uninsured motor vehicles, §23-89-401.

Used motor vehicle buyers protection,
§23-112-602.

MOTOR VEHICLES —Cont'd**Distributors.**

Defined, §23-112-103.

Unlawful practices, §23-112-403.

Fees.**Licenses.**

Dealers, distributors, manufacturers and salespersons.

Application, §23-112-303.

Used motor vehicle buyers protection.

Documentary fees, §23-112-612.

License certificate fees, §23-112-608.

Hearings.

Motor vehicle commission.

Licenses.

Dealers, distributors, manufacturers and salespersons.

Denial, revocation or suspension of license, §§23-112-501 to 23-112-509.

Injunctions.**Licenses.**

Dealers, distributors, manufacturers and salespersons.

Violations of provisions, §23-112-104.

Insurance generally.

See MOTOR VEHICLE INSURANCE.

Leases.**Lessors.**

Unlawful practices, §23-112-404.

Liability insurance.

See MOTOR VEHICLE INSURANCE.

Licenses.**Appeals.**

Dealers, distributors, manufacturers and salespersons.

Denial, revocation or suspension of license, §23-112-506.

Dealers, distributors, manufacturers and salespersons.

Addition of new motor vehicle dealers, §23-112-311.

Appeals.

Denial, revocation or suspension, §23-112-506.

Applications, §23-112-302.

Fees, §23-112-303.

Bonds, surety, §23-112-302.

Brokers.

Acting as broker prohibited, §23-112-406.

Business restructuring, §23-112-304.

Buyer referral services, plans, clubs, etc., §23-112-406.

**MOTOR VEHICLES —Cont'd
Licenses —Cont'd**

Dealers, distributors, manufacturers and salespersons —Cont'd

Change of employer, §23-112-305.

Factory representative and distributor representative, §23-112-305.

Salespersons, §23-112-306.

Change of location, §23-112-304.

Civil penalty for violations, §23-112-313.

Compensation for warranty and recall work, §23-112-313.

Damages.

Pecuniary loss from failure to comply with provisions, §23-112-105.

Definitions, §23-112-103.

Delivery, preparation and warranty obligations.

Copy, §23-112-310.

Denial, §23-112-308.

Monetary penalty in lieu of suspension or revocation, §23-112-309.

Display of license, §23-112-305.

Change of employer.

Factory representative and distributor representative, §23-112-305.

Salespersons, §23-112-306.

Documentary fees, §23-112-315.

Engaging in business without license, §23-112-301.

Exhaustion of remedies required, §23-112-507.

Expiration, §23-112-307.

Factory representative and distributor representative, §23-112-305.

Fees, §23-112-301.

Application, §23-112-303.

Documentary fees, §23-112-315.

Fines to enforce provisions, §23-112-314.

Franchise agreements.

Violations, §23-112-403.

Hearings.

Appeals, §23-112-506.

Call for hearing, §23-112-502.

Conduct, §23-112-504.

Decisions, §23-112-505.

Exhaustion of remedies required, §23-112-507.

Location, §23-112-503.

Notice, §23-112-503.

MOTOR VEHICLES —Cont'd**Licenses —Cont'd**

Dealers, distributors, manufacturers
and salespersons —Cont'd

Hearings —Cont'd

Orders of commission,
§23-112-505.

Right to hearing, §23-112-501.

Rules of order or procedure,
§23-112-508.

Summons, citation and subpoena,
§23-112-509.

Indemnity bond, §23-112-302.

Injunctions.

Violations of provisions,
§23-112-104.

Issuance, §23-112-304.

Labor and parts, warranty and
recall work, §23-112-313.

Legislative declaration, §23-112-102.

Manufacturer's product or warranty
liability, §23-112-310.

Misdemeanors.

Dealers and salespersons,
§23-112-402.

Violation of license requirements,
§23-112-301.

Name changes, §23-112-304.

New motor vehicles.

Defined, §23-112-103.

Engaging in the business of
buying, selling or exchanging.

Defined, §23-112-301.

Required, §23-112-301.

Penalty imposed for violations,
§23-112-313.

Product liability as between dealer
and manufacturer, §23-112-310.

Prohibited acts.

Dealers and salespersons,
§23-112-402.

Manufacturers, distributors, etc.,
§23-112-403.

Recall agreements, §23-112-313.

Reciprocity, §23-112-312.

Records to be maintained.

Applicants for licenses,
§23-112-302.

Relocation of new motor vehicle
dealer, §23-112-311.

Required, §23-112-301.

Revocation or suspension,
§23-112-308.

Hearings, §23-112-501.

Monetary penalty in lieu of,
§23-112-309.

Term, §23-112-307.

MOTOR VEHICLES —Cont'd**Licenses —Cont'd**

Dealers, distributors, manufacturers
and salespersons —Cont'd

Termination, cancellation, etc., of
franchise, §23-112-403.

Time allowances for warranty or
recall work, §23-112-313.

Unfair competition by manufacturer
with dealer, §23-112-403.

Unlawful acts, §23-112-301.

Used motor vehicle buyers
protection.

General provisions, §§23-112-601
to 23-112-612. See within this
heading, "Used motor vehicle
buyers protection."

Violations of provisions.

Civil damages, §23-112-105.

Injunctions, §23-112-104.

Prohibited acts, §§23-112-402,
23-112-403.

Warranty or recall agreements,
§23-112-313.

Warranty work, payments to dealers
for, §23-112-310.

Fees.

Dealers, distributors, manufacturers
and salespersons.

Application, §23-112-303.

Penalties, §23-112-314.

Manufacturers.

Damage to motor vehicles while in
transit.

Delivery to dealer.

Damage after.

Disclosure to consumer,
§23-112-706.

Damage prior to.

Computing time, §23-112-704.

Disclosure to consumer,
§23-112-705.

Failure to repair, §23-112-703.

Notice, §23-112-702.

When accomplished, §23-112-701.

Indemnification of franchised dealer.

Manufacturer required to
indemnify, §23-112-707.

Defined, §23-112-103.

Unlawful practices, §23-112-403.

Misdemeanors.**Licenses.**

Dealers, distributors, manufacturers
and salespersons.

Violations of license requirements,
§§23-112-301, 23-112-402.

Passengers.

Assigned seat.

Refusal to take, §23-13-406.

MOTOR VEHICLES —Cont'd**Misdemeanors —Cont'd**

Used motor vehicle buyers protection,
§23-112-603.

Motor carriers, §§23-13-101 to 23-13-506.

See MOTOR CARRIERS.

Motor vehicle commission.

Bonds, surety, §23-112-202.

Citation of chapter.

Short title, §23-112-101.

Compliance.

Orders directing and commanding,
requirements, §23-112-106.

Creation, §23-112-201.

Definitions, §23-112-103.

Employee, §23-112-203.

Enforcement, §23-112-106.

Executive secretary, §23-112-203.

Expenses, §23-112-205.

Funds.

Disposition, §23-112-205.

Legislative declaration, §23-112-102.

Meetings, §23-112-202.

Members, §23-112-201.

Oath of office of members,
§23-112-202.

Office, §23-112-203.

Policy of state, §23-112-102.

Quorum, §23-112-202.

Rules and regulations, §23-112-204.

Seal, §23-112-202.

Title of chapter.

Short title, §23-112-101.

Notice.

Damage to motor vehicles while in
transit.

Damage prior to delivery to dealer,
§23-112-702.

Oaths.

Motor vehicle commission.

Oath of office of members,
§23-112-202.

Passengers.

Insurance.

Coverage for passengers and others
not occupying another vehicle,
§23-89-204.

Misdemeanors.

Assigned seat.

Refusal to take, §23-13-406.

Penalties.

Assigned seat.

Refusal to take, §23-13-406.

Penalties.

Drivers.

Hours of duty and rest periods.

Violations of provisions,
§23-13-101.

MOTOR VEHICLES —Cont'd**Penalties —Cont'd**

Passengers.

Assigned seat.

Refusal to take, §23-13-406.

Used motor vehicle buyers protection.

Disbursement of fees, §23-112-603.

Previously owned motor vehicles.

Generally, §§23-112-601 to 23-112-612.

See within this heading, "Used
motor vehicle buyers protection."

Reciprocity.

Licenses.

Dealers, distributors, manufacturers
and salespersons, §23-112-312.

Records.

Used motor vehicle buyers protection.

Dealer licensees, §23-112-611.

Rental vehicles.

Insurance.

Limited license for rental
companies, §23-64-202.

Prohibited acts by motor vehicle
lessors, §23-112-404.

Rules and regulations.

Motor vehicle commission,
§23-112-204.

Used motor vehicle buyers protection,
§23-112-604.

Safety responsibility.

See SAFETY RESPONSIBILITY,
MOTOR VEHICLES.

Salespersons.

Defined, §23-112-103.

Unlawful practices, §23-112-402.

Sentencing.

Used motor vehicle buyers protection.

Repeat offenders, §23-112-603.

Underinsured motorists, §23-89-209.

Annual report by insurers,
§23-63-1202.

Set-offs or reduction of recovery,
§23-89-403.

Uninsured motorists.

Casualty insurance.

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' insolvency protection.

Applicability, §23-89-402.

Property damage coverage,
§23-89-404.

Subrogation of insurer making
payment, §23-89-405.

MOTOR VEHICLES —Cont'd**Used motor vehicle buyers**

protection, §§23-112-601 to 23-112-612.

Advertising.

Information required in printed advertisements, §23-112-610.

Dealer's license.**Application.**

Issuance of license certificate, §23-112-609.

Surety bond, §23-112-607.

Verified application, §23-112-607.

Application process, §23-112-607.

Certificate fees, §23-112-608.

Display, §23-112-610.

Fees.

Licensed certificate fees, §23-112-608.

Issuance of license certificate, §23-112-609.

Posting, §23-112-610.

Recordkeeping requirements, §23-112-611.

Required, §23-112-606.

Unlicensed businesses, §23-112-606.

Penalty, §23-112-603.

Violations, §23-112-605.

Penalty, §23-112-603.

Definitions, §23-112-602.

Disbursement of fines, §23-112-603.

Documentary fees, §23-112-612.

Felony offenses, §23-112-603.

Legislative findings, §23-112-601.

Misdemeanor offenses, §23-112-603.

Public policy, §23-112-601.

Rulemaking authority, §23-112-604.

Violations.

Enumeration, §23-112-605.

Penalty, §23-112-603.

MULTIPLE EMPLOYER TRUSTS AND SELF INSURERS.

See **INSURANCE**.

MUNICIPAL CORPORATIONS.

Direct actions against insurer, §23-79-210.

Greyhound racing.

Racing meets.

Use of revenue derived from additional racing days, §23-111-515.

Insurance.

Direct action against insurer, §23-79-210.

Motor carriers.

Taxation.

Prohibited, §23-13-103.

MUNICIPAL CORPORATIONS

—Cont'd

Motor vehicles.

Motor carriers.

Taxation.

Prohibited, §23-13-103.

Public utilities.

Franchises.

Violation of municipal franchise.

Damages, §23-3-116.

Penalty, §23-3-116.

Municipal electric consolidated authorities.

See **MUNICIPAL ELECTRIC CONSOLIDATED AUTHORITIES**.

Rates and charges.

Cities and towns divested of authority over ratemaking, §23-4-201.

Railroads.

Free carriage for municipalities.

Authorized, §23-4-807.

Land grants in aid of railroads.

Rights of way, §23-12-205.

Rights of way.

Abandoned rights of way.

Sale to municipality, §23-12-205.

Rates and charges.

Public utilities.

Cities and towns divested of authority over rate making, §23-4-201.

Rural telecommunications cooperatives.

General provisions, §§23-17-201 to 23-17-242.

See **RURAL**

TELECOMMUNICATIONS COOPERATIVES.

Municipalities defined, §23-17-202.

MUNICIPAL ELECTRIC CONSOLIDATED AUTHORITIES.

Construction of major utility facility.

Subject utility facility environmental and economic protection act, §23-18-530.

Jurisdiction and regulatory authority of public service commission.

Limitations, §23-18-532.

Powers of authority, §§23-18-531, 25-20-405.

MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS,

§§23-72-101 to 23-72-122.

Actions, §23-72-120.

**MUTUAL ASSESSMENT LIFE AND
DISABILITY INSURERS —Cont'd****Amendments.**

Bylaws, §23-72-110.

Applicability of chapters, §23-72-102.**Applicability of miscellaneous
provisions, §23-72-103.****Assessments.**

Additional assessments, §23-72-112.

Pro rata assessment plans.

Defined, §23-72-101.

Guidelines for transactions,
§23-72-107.

Reclassification and rearrangement
of members, §23-72-116.

Special provisions, §23-72-111.

Attachment.

Benefits, §23-72-114.

Benefits.

Adjustments of rates or benefits,
§23-72-112.

Attachment, §23-72-114.

Level or stipulated plan insurers,
§23-72-113.

Bonds, surety.

Required, §23-72-105.

Bylaws, §23-72-109.

Amendments, §23-72-110.

Filing, §23-72-110.

Certificates of authority.

Refusal or revocation.

Grounds, §23-72-106.

Claims.

Scaling of claims.

Notice to members, §23-72-115.

Conversions.

Merger or bulk reinsurance or
conversion, §23-72-119.

Insolvency, §23-72-121.**Insuring powers, §23-72-108.****Level or stipulated rate plans.**

Defined, §23-72-101.

Guidelines for transactions,
§23-72-107.

Liabilities.

Officers and members not individually
liable, §23-72-122.

Mergers.

Bulk reinsurance or merger or
conversion, §23-72-119.

Minimum requirements, §23-72-104.**New insurers, §23-72-104.****Notice.**

Claims.

Scaling of claims, §23-72-115.

Officers.

Liability, §23-72-122.

**MUTUAL ASSESSMENT LIFE AND
DISABILITY INSURERS —Cont'd****Other provisions applicable,
§23-72-103.****Policies.**

Minimum requirements, §23-72-104.

Powers to insure, §23-72-108.**Premiums.**

Conversion to level premium plan,
§23-72-118.

Pro rata assessment plans.

Defined, §23-72-101.

Guidelines for transactions,
§23-72-107.

Reclassification and rearrangement of
members, §23-72-116.

Special provisions, §23-72-111.

Provisions exclusive, §23-72-102.**Rates and rating organizations.**

Adjustment of rates or benefits,
§23-72-112.

Level or stipulated rate plans.

Benefits and payment, §23-72-113.

Defined, §23-72-101.

Reinsurance, §23-72-117.

Bulk reinsurance, §23-72-119.

Reserves.

Required, §23-72-104.

Scope of chapter, §23-72-102.**Service of process.**

Actions, §23-72-120.

Solvency, §§23-72-101 to 23-72-122.**Venue.**

Actions, §23-72-120.

MUTUAL FUNDS.**Trust companies.**

Investments, §23-51-126.

**MUTUAL INSURANCE HOLDING
COMPANIES, §§23-69-301 to**

23-69-323.

**See HOLDING COMPANIES,
INSURANCE.****N****NAMES.****Banks.**

Mergers, conversions or other
corporate actions.

Use of old name, §23-48-507.

Misleading use of name or title,
§23-50-103.

Reservation and registration of names,
§23-48-309.

Restrictions on use of names,
§23-32-209.

NAMES —Cont'd**Building and loan associations.**

Restrictions on use, §23-32-209.

Captive insurance companies.Deceptively similar names,
§23-63-1603.**Credit unions.**Improper use of words "credit union,"
§23-35-801.

Enforcement, §23-35-801.

Restrictions on use, §23-32-209.

Criminal law and procedure.**Banks.**

Misleading use, §23-50-103.

Financial institutions.Unauthorized use of name or title,
§23-32-209.**Felonies.****Banks.**Misleading use of name or title,
§23-50-103.**Financial institutions.**Unauthorized use of name or title,
§23-32-209.**Financial institutions.**Restrictions on use of certain phrases,
§23-32-209.**Fines.****Banks.**Misleading use of name or title,
§23-50-103.**Financial institutions.**Unauthorized use of name or title,
§23-32-209.**Insurance.****Companies.**

Foreign state or country.

Unjustified refusal to permit
business because of similar
name.

Retaliation, §23-63-103.

Name of insurer, §23-63-203.

Insurance producers.

Assumed names, §23-64-510.

Reciprocal insurers.**Actions.**

Name used in suits, §23-70-104.

Stipulated premium insurers.

Use of name, §23-71-106.

**Unfair competition and trade
practices.**

Fictitious groups, §23-66-304.

Insurance companies.

Captive insurance companies.

Deceptively similar names,
§23-63-1603.**Prison terms.****Banks.**

Misleading use, §23-50-103.

NAMES —Cont'd**Prison terms —Cont'd**

Financial institutions.

Unauthorized use of name or title,
§23-32-209.**Rural telecommunications
cooperatives.**

Prohibition on use of words

"telecommunications cooperative"
or "telephone cooperative,"
§23-17-208.**Trust companies.**

Registration, §23-51-169.

Restrictions on use, §23-32-209.

NATURAL GAS.**Gas utilities extension projects,**

§§23-3-601 to 23-3-607.

See OIL AND GAS.

NEGLIGENCE.**Railroads.**

See RAILROADS.

Telephone and telegraph companies.Damages for mental anguish,
§23-17-112.**NEWSPAPERS.****Railroads.**

Passes.

Issuance in exchange for advertising
space, §23-4-806.**NO FAULT INSURANCE.****First party coverage.**

Required coverage, §23-89-202.

NONFORFEITURE.**Annuities.**

See INSURANCE.

Life insurance.

See LIFE INSURANCE.

**NONPROFIT CORPORATIONS
(1987).****Direct actions against insurer,
§23-79-210.****NONRESIDENTS.****Title insurance.**

Agent licenses.

Nonresident licensing, §23-103-306.

NOTARIES PUBLIC.**Bank officers, §23-48-324.****NOTES.****Building and loan associations.**Authority to borrow money,
§23-38-215.**NOTICE.****Automatic teller machines.**Establishment of machines,
§23-48-803.

NOTICE —Cont'd**Aviation.**

Air commerce.

See AVIATION.

Banking board.

Applications file, §23-46-403.

Hearings, §23-46-405.

Meetings, §23-46-402.

Banks.

Adverse claims to deposits, §23-47-205.

Automatic teller machines.

Establishment of terminal,
§23-48-803.

Branches.

Termination of full service branches,
§23-48-705.

Deposits.

Notice of rules, §23-47-201.

Dissolution and liquidation.

Notice of claims, §23-49-109.

Notice of possession by department,
§23-49-105.Notice of safekeeping of safe deposit
boxes, §23-49-115.Possession by department,
§23-49-102.Failure to make report or pay fees,
§23-46-510.

Interstate mergers and branching.

Change of control of out-of-state
banks, §23-48-910.Notice of proposed merger,
§23-48-905.

Plans of exchange.

Meeting to consider, §23-48-602.

Revocation of trust powers,
§23-47-709.

Shareholder meetings.

Notice of annual meeting,
§23-48-319.

Stockholder meetings, §23-48-318.

Building and loan associations.

Insolvency and illegal practices.

Commissioner's notice, §23-38-302.

Loan from reconstruction finance
corporation.

Court to approve, §23-38-306.

Noncompliance, §23-38-303.

Carriers.

Rates and charges.

Changes in rates, §23-4-620.

Proposed changes, §23-4-635.

CBCT's.

Establishment, §23-48-803.

Checks.

Sale of checks act.

Hearings, §23-41-107.

NOTICE —Cont'd**Continuing care providers.**

Disclosure statements.

Deficiencies, §23-93-107.

Licenses.

Disciplinary actions, §23-93-205.

Electric cooperative corporations.

Organizational meeting, §23-18-316.

Rates and charges.

Changes.

Proposed rate changes, §23-4-903.

Financial institutions.

Banks.

See BANKS.

Fraternal benefit societies.Consolidations and mergers,
§23-74-305.

Domestic societies.

Deficiency or deficiencies,
§23-74-606.

Hearings.

Injunctions, liquidation or
receivership, §23-74-606.

Examination of societies.

Opportunity to respond to before
findings made public,
§23-74-604.

Foreign or alien societies.

Licenses.

Suspension, revocation or refusal.

Notice of deficiency, §23-74-607.

Publication.

Required notice, §23-74-202.

Greyhound racing.

Franchises to conduct races.

Elections, §23-111-304.

Health maintenance organizations.

Rules and regulations.

Promulgation, §23-76-125.

Highways.State highway and transportation
department.

Hearings, §23-2-415.

Service, §23-2-405.

Horse racing.

Franchises to conduct horse races.

Elections, §23-110-304.

Racing meets.

Sunday racing.

Notice of election, §23-110-402.

Industrial loan institutions.Claims against estate of liquidated
institution, §23-36-116.Commissioners taking charge of
institution, §23-36-116.**Insurance.**

See INSURANCE.

NOTICE —Cont'd**Medicare supplement insurance policies.**

Applicant's free examination,
§23-79-407.

Mortgage bankers, brokers and servicers.

Change in managing principal or
branch manager, §23-39-508.
Change of location of office where files
maintained, §23-39-509.
Loan officer's employment terminated.
Requirement, failure to give fine,
§23-39-503.

Motor carriers.

Insurance policies on leased motor
vehicles.
Notice of cancellation or
termination, §23-13-104.
Transportation commission.
Appeals.
Orders of commission, §23-13-212.
Hearing, §23-13-210.

Property insurance.

Fire loss reporting act.
Notice regarding fire protection,
§23-88-404.
Notice prior to expiration of policy,
§23-88-105.

Public service commission.

Appeals, §23-2-423.
Hearings, §23-2-415.
Service, §23-2-405.

Public utilities.

Rates and charges.
Change in rates.
Changes allowed without notice,
§23-4-403.
Intention to file application for
rate change, §23-4-401.
Proposed changes, §23-4-402.

Railroads.

Crossings.
Orders of state highway commission,
§23-12-304.
Dangerous conditions.
Notice to public, §23-12-103.
Drainage of roadbed.
Notice of violation, §23-12-204.
Fences.
Notice to remove fence for public
convenience, §23-12-308.
Freight.
See RAILROADS.
Livestock.
Killing or injuring.
Notice to be posted, §23-12-908.

NOTICE —Cont'd**Railroads —Cont'd**

Stock guards.
Notice to construct, §23-12-412.

Risk-based capital act.

Notices to insurers, §23-63-1316.
Health organizations, §23-63-1512.

Risk retention and purchasing groups.

Foreign risk retention groups.
Notice to purchasers, §23-94-205.
Purchasing groups.
Requirements, §23-94-208.

Rural telephone cooperatives.

Meetings.
Members meetings, §23-17-217.
Waiver of notice, §23-17-223.
Organizational meeting, §23-17-213.
Waiver of notice of meetings,
§23-17-223.

Securities regulation.

Registration of securities by
notification, §23-42-401.

Trust companies.

Change of location of principal office,
§23-51-172.
Charter application, §23-51-107.
Commissioner's actions.
Notice and opportunity for hearing,
§23-51-189.
Dissolution and liquidation.
Notice of claims, §23-49-109.
Notice of possession by department,
§23-49-105.
Notice of safekeeping of safe deposit
boxes, §23-49-115.
Possession by department,
§23-49-102.
Establishment of office, §23-51-173.
Out-of-state offices, §23-51-174.
Out-of-state trust companies.
Establishment or acquisition of
office, §23-51-178.
Notice of changes in control,
§23-51-183.
Private trust companies.
Revocation of exemption, §23-51-119.

Underinsured motorists.

Rejection of coverage, §23-89-209.

Viatical settlements.

Fraud prevention and control,
§23-81-612.
Notice of viaticated policy, §23-81-609.

Water power companies.

Eminent domain.
Notice to nonresident landowners,
§23-18-406.

NOTICE —Cont'd**Workers' compensation.**

Increase in premiums, §23-79-151.

NURSING HOMES.**Long-term care insurance.**

General provisions, §§23-97-201 to 23-97-213.

See LONG-TERM CARE
INSURANCE.

O**OATHS.****Credit unions.**

Officers, §23-35-305.

Highways.

State highway and transportation
department.

Administration of oaths, §23-2-406.

Horse racing.

Racing commission.

Oath of office of members,
§23-110-201.

Insurance.

Burial associations.

Board.

Oath of office, §23-78-105.

Fees.

Oath at payment, §23-78-111.

Commissioner, §23-61-102.

Motor vehicles.

Motor vehicle commission.

Oath of office of members,
§23-112-202.

Perjury.

General provisions.

See PERJURY.

Public service commission.

Administration of oaths, §23-2-406.

Oath of office, §23-2-101.

Savings and loan associations.

Charter, §23-37-301.

Trust companies.

Commissioner's power to administer,
§23-51-190.

Trusts and trustees.

Banks as trustees, §23-47-706.

OBSCENITY.**Railroads.**

Improper language in waiting rooms
or cars.

Penalty, §23-12-801.

OBSTETRICAL SERVICES.**Health insurance.**

Required coverage, §23-99-406.

OIL AND GAS.**Gas utilities extension projects.**

Certificate.

Conditions and limitations on grant
of certificate, §23-3-605.

Defined, §23-3-602.

Denial of certificate, §23-3-607.

Effect, §23-3-607.

Effect, §23-3-603.

Grant of certificate, §23-3-603.

Conditions and limitations,
§23-3-605.

Petition for certificate, §23-3-601.

Not considered rate application,
§23-3-306.

Definitions, §23-3-602.

Legislative declaration, §23-3-601.

Purpose of provisions, §23-3-601.

Rates, §23-3-604.

Petition for certificate not considered
rate application, §23-3-306.

Tariffs, §23-3-604.

ORDERS.**Building and loan associations.**

Stock and stockholders.

Dividends.

Improper payment.

Suspension of payment by bank
commissioner, §23-38-208.

Continuing care providers.

Cease and desist orders.

Enforcement of chapter, §23-93-104.

Highways.

State highway and transportation
department.

Actions between private persons and
railroad companies.

Orders not controverted,
§23-2-427.

Amendment, §23-2-426.

Appeals, §23-2-425.

Burden of proof.

Persons seeking to avoid
compliance, §23-2-417.

Compliance with orders.

Burden of proof on persons
seeking to avoid compliance,
§23-2-417.

Power to compel, §23-1-104.

Required, §23-1-103.

Contracts in violation of orders.

Void, §23-1-112.

Evidence.

Copies as evidence, §23-2-420.

Penalties.

Violations, §23-1-103.

Rescinding, §23-2-426.

ORDERS —Cont'd
Highways —Cont'd
 State highway and transportation department —Cont'd
 Violations.
 Penalties, §23-1-103.
 Written orders required, §23-2-420.
Injunctions.
 General provisions.
 See INJUNCTIONS.
Public service commission.
 See PUBLIC SERVICE COMMISSION.
Public utilities.
 Rates and charges.
 Change in rates.
 See PUBLIC UTILITIES.
Railroads.
 Crossings.
 State highway commission, §23-12-304.
Securities regulation.
 Commissioner.
 Review of commissioner's orders, §23-42-210.
 Rules, forms and orders of commissioner, §23-42-204.

P

PARI-MUTUEL WAGERING.
Greyhound racing, §23-111-508.
Horse racing, §23-110-405.
PARTIES.
Public utilities.
 Environmental and economic protection.
 Certificates of environmental compatibility and public need.
 Certification proceedings, §23-18-517.
PASSENGERS.
Motor carriers.
 See MOTOR CARRIERS.
Railroads.
 See RAILROADS.
PATIENT PROTECTION ACT OF 1995.
Health insurance.
 Health care providers, §§23-99-201 to 23-99-209.
 See HEALTH INSURANCE.
PAYABLE ON DEATH ACCOUNTS.
Accounts or certificates of deposit in two or more names.
 Savings and loan associations, §23-37-502.

PEACE BONDS.
Bonds, surety.
 Generally.
 See BONDS, SURETY.
PERJURY.
Fraternal benefit societies, §23-74-703.
Highways.
 State highway and transportation department.
 Witnesses, §23-2-413.
Public service commission.
 Witnesses, §23-2-413.
Railroads.
 Freight.
 Damages.
 False affidavit as to damage, §23-10-304.
Witnesses.
 Public service commission, §23-2-413.
 State highway and transportation department, §23-2-413.
PERMITS.
Building and loan associations.
 Foreign associations.
 Transacting business in state, §23-38-220.
Check-cashers.
 Appeal from permit denial, §23-52-113.
 Applications, §23-52-108.
 Action by department on, §23-52-109.
 Fees.
 Annual permit fee, §23-52-109.
 Initial permit fee, §23-52-108.
 Issuance, §23-52-109.
 Qualifications, §23-52-107.
 Required, §23-52-103.
 Revocation or suspension, §23-52-114.
Funerals.
 Prepaid funeral services.
 See FUNERALS.
Highways.
 State highway and transportation department.
 Assignability.
 Indeterminate permits granted under 1919 act, §23-1-113.
Insurance.
 Amusement ride and amusement attraction safety insurance.
 See INSURANCE.
Motor carriers.
 See MOTOR CARRIERS.
Public utilities.
 See PUBLIC UTILITIES.
Trust companies.
 Voluntary liquidation, §23-51-158.

PERSONAL PROPERTY.**Eminent domain.**

General provisions.

See EMINENT DOMAIN.

Insurance.

Domestic stock and mutual insurers.

Taxation.

Situs of personal property for
taxation, §23-69-136.**Rural telecommunications
cooperatives.**

Powers, §23-17-205.

PETITIONS.**Electric cooperative corporations.**

Rates and charges.

Petition for relief from rate change,
§§23-4-904, 23-4-905.Petition to declare co-op subject to
rate case procedures, §23-4-906.**Insurance.**

Delinquency proceedings.

Report and petition for assessment,
§23-68-130.**Mortgage bankers, brokers and
servicers.**Review of order of securities
commissioner, §23-39-515.**Public service commission.**

Appeals.

Orders of commission, §23-2-423.

Railroads.Establishment or discontinuance of
railroad service, §§23-12-607 to
23-12-611.

See RAILROADS.

Stopping trains within town limits
upon petition, §23-12-606.**Telecommunications.**Change in basic local exchange service
rates.

Rural companies, §23-17-412.

Water power companies.

Eminent domain, §23-18-406.

PHARMACISTS AND PHARMACIES.**Prescriptions.**

General provisions.

See PRESCRIPTIONS.

Insurance.

Prescription drug benefits,
§23-79-149.Prescription drug card uniformity,
§§23-80-401 to 23-80-409.See PRESCRIPTION DRUG CARD
UNIFORMITY.**PHENYLKETONURIA.****Medically necessary foods and low
protein modified food products.**

Definitions, §23-79-701.

Health insurance coverage,
§23-79-703.

Income tax credit, §23-79-702.

PHYSICIANS AND SURGEONS.**Hospital and medical service
corporations.**Participating hospitals and physicians,
§23-75-110.

Professionals not licensed under

Arkansas medical practices act.

Health services performed by.

Entitlement notwithstanding
policy provisions, §23-79-114.Relationship of physician and patient,
§23-75-105.**PIPELINES.****Appeals.**

Fertilizer.

Transportation of ammonia and
other substances comprising
fertilizer or used in its
manufacture.Orders on applications for
authority to transport,
§23-15-105.**Carriers.**Pipeline companies deemed common
carriers, §23-15-101.**Definitions.**

Safety act, §23-15-203.

Eminent domain.

Fertilizer.

Transportation of ammonia and
other substances comprising
fertilizer or used in its
manufacture.Companies operating under
provisions, §23-15-105.Mineral oil, petroleum, natural gas
and lumber companies.

See EMINENT DOMAIN.

Right of pipeline companies,
§23-15-101.Procedure in exercising right,
§23-15-101.**Fees.**

Safety act.

Inspection fees, §23-15-214.

PIPELINES —Cont'd**Fertilizer.**

Transportation of ammonia and other substances comprising fertilizer or used in its manufacture.

Appeals.

Decision on application for authority to transport, §23-15-105.

Applications for authority to transport, §23-15-105.

Eminent domain.

Power of companies authorized to operate other provisions, §23-15-105.

Rules and regulations, §23-15-105.

Fines.

Civil penalties, §23-15-211.

Foreign corporations.

Domestication required, §23-3-108.

Injunctions.**Safety act.**

Violations of provisions, §23-15-212.

Jurisdiction.**Safety act.**

Violations of provisions, §23-15-212.

Penalties.**Safety act.**

Civil penalty, §23-15-211.

Public service commission.

State highway and transportation department or state highway commission.

Authority transferred, vested and conferred upon public service commission, §23-2-209.

Rates and charges.**Gas rates.**

Purchase from lowest or most advantageous market, §23-15-103.

Rules and regulations.**Fertilizer.**

Transportation of ammonia and other substances comprising fertilizer or used in its manufacture, §23-15-105.

Safety act.

Assessments, §23-15-214.

Legislative intent, §23-15-215.

Citation of act.

Short title, §23-15-201.

Confidentiality of information.

Information obtained by commission, §23-15-210.

Definitions, §§23-15-201, 23-15-203.

Fees.

Disposition, §23-15-216.

Inspection fees, §23-15-214.

PIPELINES —Cont'd**Safety act —Cont'd****Injunctions.**

Violations of provisions, §23-15-212.

Inspections.

Fees, §23-15-214.

Plans.

Compliance with, §23-15-209.

Filing, §23-15-208.

Power of commission, §23-15-207.

Investigations.

Generally, §23-15-207.

Jurisdiction.

Violations of provisions, §23-15-212.

Legislative declaration, §23-15-202.

Maintenance.**Plans.**

Compliance with, §23-15-209.

Filing, §23-15-208.

Penalties.

Civil penalty, §23-15-211.

Disposition, §23-15-216.

Public service commission, §23-15-217.

Confidentiality of information obtained by, §23-15-210.

Definition of "commission," §23-15-203.

Fees, §23-15-214.

Powers, §23-15-204.

Purpose of provisions, §23-15-202.

Records.

Access by commission, §23-15-206.

Maintenance, §23-15-206.

Reports.

Required, §23-15-206.

Standards.

Compliance with, §23-15-209.

Powers of commission, §23-15-204.

Promulgation, §23-15-205.

Waiver, §23-15-209.

Title of act.

Short title, §23-15-201.

Torts.

Liability, §23-15-213.

Service of process.

Foreign corporations, §23-3-108.

Waters and watercourses.

Navigable water crossings.

General provisions, §§23-3-501 to 23-3-513.

See PUBLIC UTILITIES.

PLANNING.**Fire protection districts.**

See FIRE PROTECTION DISTRICTS.

PLEADINGS.**Highways.**

State highway and transportation department, §23-2-403.

P.O.D. ACCOUNTS.**Accounts or certificates of deposit in two or more names.**

Savings and loan associations, §23-37-502.

POLICE.**Arrest.**

General provisions.

See ARREST.

Railroads, §§23-12-701 to 23-12-708.

See RAILROAD POLICE.

Used motor vehicle buyers protection.

Disbursement of fines, §23-112-603.

POLICIES OF INSURANCE.**Fraternal benefit societies.**

See FRATERNAL BENEFIT SOCIETIES.

Insurance generally.

See INSURANCE.

POLITICAL SUBDIVISIONS.**Municipal corporations.**

See MUNICIPAL CORPORATIONS.

POULTRY.**Motor carriers.**

Motor carrier act of 1955.

Exemptions, §23-13-206.

Documents required to be in possession of exempt carrier, §23-13-265.

POWERS OF ATTORNEY.**Banks.**

Obligation to inquire into limitations upon powers, §23-48-104.

Certificates of deposit.

Agency designation, §§23-47-301 to 23-47-309.

See BANKS.

Forms.

Agency designation on certificates of deposit, §23-32-503.

Insurance.

Reciprocal insurers, §23-70-108.

Savings and loan associations.

Savings accounts, §23-37-508.

PREGNANCY.**Health insurance.**

Required coverage, §§23-99-404, 23-99-406.

PREMIUMS.**Insurance.**

Premium taxes.

See INSURANCE.

PREPAID FUNERAL SERVICES,

§§23-40-101 to 23-40-120.

See FUNERALS.

PREPAID LEGAL INSURANCE,

§§23-91-201 to 23-91-227.

See ATTORNEYS AT LAW.

PRESCRIPTION DRUG CARD

UNIFORMITY, §§23-80-401 to 23-80-409.

Applicability of provisions.

Arrangements not subject to provisions, §23-80-403.

Compliance with provisions,

§23-80-407.

Contents of cards, §23-80-404.**Definitions, §23-80-402.****Enforcement of provisions,**

§23-80-408.

Enrollment of covered persons,

§23-80-405.

Insurance commissioner

enforcement of provisions, §23-80-408.

Issuance of cards, §23-80-405.

No requirement that plans issue cards, §23-80-406.

Legislative intent, §23-80-401.**No requirement for plans to issue cards, §23-80-406.****Purpose of provisions, §23-80-401.****Requirement of uniformity, §23-80-404.****Rulemaking to implement, §23-80-409.****Time for compliance with provisions, §23-80-407.****PRESCRIPTIONS.****Cancer.**

Insurance coverage for prescription medication, §23-79-147.

Health insurance.

Formulary for prescription drugs.

Procedure for exceptions, §23-99-409.

Prescription medication for treatment of cancer, §23-79-147.

Insurance.

Prescription drug benefits, §23-79-149.

Prescription drug card uniformity, §§23-80-401 to 23-80-409.

See PRESCRIPTION DRUG CARD UNIFORMITY.

Uniformity of prescription drug cards, §§23-80-401 to 23-80-409.

See PRESCRIPTION DRUG CARD UNIFORMITY.

PRESUMPTIONS.**Railroads.**

Employees.

Liability for injury or death of employee.

Defective equipment.

Presumption of knowledge,
§23-12-504.**PRIMARY EYE CARE PROVIDER**

ACT, §§23-99-301 to 23-99-305.

See HEALTH INSURANCE.

PRIORITIES.**Banks.**

Dissolution and liquidation.

Payment of claims, §23-49-111.

Trust companies.

Dissolution and liquidation.

Payment of claims, §23-49-111.

PRISON TERMS.**Air commerce regulations,**

§23-14-104.

Automobile clubs or associations.Failure to comply with provisions,
§23-77-103.**Aviation,** §23-14-104.**Bank holding companies.**

Penalty for violations, §23-48-403.

Banks.Embezzlement or misuse of funds,
§23-50-105.Misleading use of name or title,
§23-50-103.**Bucket shops.**

Commodities futures, §23-44-102.

Building and loan associations.Embezzlement, unauthorized acts, etc.,
§23-38-401.

Suppressing evidence, §23-38-403.

Burial associations.Failure to comply with provisions,
§23-78-104.False claim, promise or representation
of agent, §23-78-114.

False entries in books, §23-78-118.

False statements, §23-78-111.

Carriers, §23-16-201.Agreements to pay charge for
additional mode of transportation,
§23-10-109.**Commodities futures,** §23-44-102.

Bucket shops, §23-44-102.

Credit unions.

False reports, §23-35-805.

Misleading conduct, §23-35-801.

Officers, directors, etc.

Prohibited acts, §23-35-803.

PRISON TERMS —Cont'd**Credit unions —Cont'd**Prohibited actions by officers and
employees, §23-35-803.Use of words "credit union,"
§23-35-801.**Dog racing.**Failure to comply with franchise,
§23-111-501.False affidavits of officers and
directors, §23-111-406.

Improper wagering, §23-111-508.

Issuance of sales tax-free passes,
§23-111-510.**Financial institutions.**Unauthorized use of name or title,
§23-32-209.**Fraternal benefit societies.**Fraudulent statements and
solicitations of membership,
§23-74-703.**Fraud.**Insurance holding companies,
§23-63-522.**Funeral benefits.**

Sale of prepaid benefits, §23-40-106.

Health maintenance organizations.Willful violations of chapter,
§23-76-105.**Horse racing.**

Compliance with license, §23-110-401.

Improper wagering, §23-110-405.

Issuance of sales tax-free passes,
§23-110-411.**Insurance.**Domestic stock and mutual insurers.
Records.Concealment or removal from
home office, §23-69-134.False or misleading statements,
§23-60-109.

Holding companies, §23-63-522.

Misrepresentation of other policies,
§23-66-306.**Motor carriers,** §23-13-401.

Passengers, §23-13-401.

Failure to take assigned seat,
§23-13-406.**Names.**

Banks.

Misleading use, §23-50-103.

Financial institutions.

Unauthorized use of name or title,
§23-32-209.**Public utilities,** §23-3-304.

False testimony or reports, §23-1-105.

PRISON TERMS —Cont'd**Railroad operation and maintenance.**

Discharging firearms or throwing objects, §23-12-804.

Unsafe tracks, bridges, etc., §23-12-103.

Use of track as highway, §23-12-803.

Telephone and telegraph companies.

Divulging contents or refusal to transmit or deliver message, §23-17-109.

Transportation carriers.

Penalties generally, §23-16-201.

PRIVACY.**Confidentiality of information.**

See CONFIDENTIALITY OF INFORMATION.

Insurance.

Consumer protection.

Customer privacy, §23-66-607.

PRIVILEGED COMMUNICATIONS.**Confidentiality of information.**

See CONFIDENTIALITY OF INFORMATION.

PRIVILEGE TAXES.**Insurance.**

Premium taxes.

See INSURANCE.

Risk retention groups, §23-94-210.

PROCESS.**Service.**

See SERVICE OF PROCESS.

PRODUCTS LIABILITY.**Risk retention and purchasing groups, §§23-94-201 to 23-94-215.**

See RISK RETENTION AND PURCHASING GROUPS.

PROFESSIONAL EMPLOYER

ORGANIZATIONS, §§23-92-401 to 23-92-419.

Bond required, §23-92-408.

Employer service assurance organizations, §23-92-415.

Client's rights and duties, §23-92-409.**Coemployment relationships, §23-92-409.****Confidential information, §23-92-413.****Construction of provisions.**

Relationship to other laws, §23-92-403.

Controlling persons.

Changes in control, §23-92-406.

Duties, §23-92-405.

Deceptive practices, §23-92-411.**Definitions, §23-92-402.****PROFESSIONAL EMPLOYER ORGANIZATIONS —Cont'd****Employer service assurance organizations.**

Affidavit, §23-92-414.

Filing, §23-92-418.

Filing, §23-92-418.

Licenses, §23-92-415.

Permissible activities, §23-92-417.

Prohibited activities, §23-92-416.

Fees, §23-92-407.

Employer service assurance organization affidavit, §23-92-414.

Letter of credit in lieu of bond, §23-92-408.**Liability limitation, §23-92-409.****Licenses.**

Employer service assurance organizations, §23-92-415.

Exemptions, §23-92-404.

Fees, §23-92-407.

Information required, §23-92-404.

Issuance, §23-92-410.

Renewal, §23-92-404.

Requirement, §23-92-404.

Revocation or suspension, §23-92-410.

Transfer or assignment, §23-92-406.

Net worth requirements, §23-92-408.**Organization's rights and duties, §23-92-409.****Penalties for violations, §23-92-412.****Prohibited practices, §23-92-411.**

Employer service assurance organizations, §23-92-416.

Rulemaking, §23-92-419.**Title of provisions, §23-92-401.****PROMISSORY NOTES.****Loans generally.**

See LOANS.

PROPERTY.**Eminent domain.**

See EMINENT DOMAIN.

Fences.

See FENCES.

PROPERTY INSURANCE.**Commercial property and casualty insurance policies.**

Minimum standards, §§23-79-301 to 23-79-312.

See INSURANCE.

Creditor-placed insurance, §§23-101-101 to 23-101-114.

See CREDITOR-PLACED INSURANCE.

Defined, §23-62-104.**Fire loss reporting act.**

Annual statement, §23-88-402.

Confidential information, §23-88-403.

PROPERTY INSURANCE —Cont'd**Fire loss reporting act —Cont'd**

Notice regarding fire protection,
§23-88-404.

Rulemaking, §23-88-405.

Title of provisions, §23-88-401.

Fire protection impact statement,
§23-88-104.**Material transactions disclosures,**
§§23-63-1401 to 23-63-1406.

See INSURANCE.

Notice prior to expiration of policy,
§23-88-105.**Policies.**

Notice prior to expiration, §23-88-105.

Valued policy law, §23-88-101.

Policy simplification.

Applicability of provisions, §23-80-304.

Citation of subchapter, §23-80-301.

Commissioner.

Powers, §23-80-305.

Compliance with other statutorily
required language, §23-80-307.

Coverage outline, §23-80-308.

Definitions, §23-80-303.

Effective dates, §23-80-306.

Implementation dates, §23-80-306.

Legislative declaration, §23-80-302.

Minimum standards, §23-80-306.

Outline of coverage, §23-80-308.

Powers of commissioner, §23-80-305.

Purpose of subchapter, §23-80-302.

Standards.

Minimum standards, §23-80-306.

Statutorily required language.

Compliance with, §23-80-307.

Title of subchapter, §23-80-301.

**Property and casualty insurance
guaranty.**

Accounts and accounting.

Assessments, §23-90-114.

Advertisements.

Prohibited advertisements or
statements, §23-90-121.

Advisory association.

Conflicts of interest.

Members may enter into
contracts, §23-90-110.

Creation, §23-90-106.

Powers, §23-90-108.

Procedures, §23-90-107.

Recommendations and reports,
§23-90-109.

Appeals.

Rulings of commissioner,
§23-90-123.

Applicability of chapter, §23-90-104.

PROPERTY INSURANCE —Cont'd**Property and casualty insurance
guaranty —Cont'd**

Assessments.

Accounting for and repayment of,
§23-90-114.

Claims, §23-90-112.

Taxation.

Credit against taxes, §23-90-119.

Certificates of authority.

Suspension or revocation,
§23-90-113.

Citation of chapter, §23-90-101.

Claims.

Applicability of chapter, §23-90-111.

Estimation of amount needed to pay
claims, §23-90-112.

Notification of insureds, §23-90-111.

Payment, §23-90-115.

Covered claims, §23-90-115.

Estimation of amount needed to
pay claims, §23-90-112.

Right of recovery, §23-90-117.

Construction and interpretation.

Liberal construction of act,
§23-90-105.

Definitions, §23-90-103.

Exemptions from act, §23-90-104.

Legislative declaration, §23-90-102.

Liabilities.

Insurers, §23-90-120.

Liberal construction of chapter,
§23-90-105.

Notice.

Claims.

Insureds to be notified,
§23-90-111.

Policies.

Issuance.

New or renewal policies,
§23-90-118.

Purpose of act, §23-90-102.

Receivership.

Duties of receiver, §23-90-116.

Rules and regulations.

Promulgation, §23-90-122.

Short title, §23-90-101.

Suspension or revocation of certificate
of authority, §23-90-113.

Taxation.

Assessments as credit against taxes,
§23-90-119.

Title of chapter, §23-90-101.

Property and casualty insurers.

Annual reports.

Commissioner's relationship,
§23-63-1201.

PROPERTY INSURANCE —Cont'd**Property and casualty insurers****—Cont'd****Annual reports —Cont'd**

Compilation and review,
§23-63-1204.

Contents, §23-63-1202.

Failure to comply with
requirement, §23-63-1205.

Due date, §23-63-1203.

General provisions, §§23-63-1201 to
23-63-1205.

Insurance types, §23-63-1202.

Publication, §23-63-1204.

Regulations, §23-63-1201.

Applicability of subchapter,
§23-63-1104.

Citation of chapter, §23-63-1101.

Conflicts of laws, §23-63-1104.

Date of required compliance,
§23-63-1103.

Definitions, §23-63-1102.

General provisions, §§23-63-1101 to
23-63-1107.

Minimum standards, §23-63-1105.

Notice of relationship with producer,
§23-63-1106.

Penalties, §23-63-1107.

Producer's disclosure, §23-63-1106.

Standards generally, §23-63-1105.

Title of chapter, §23-63-1101.

Violations, §23-63-1107.

Proxies.

Domestic stock and mutual insurers,
§23-69-122.

Corrupt practices, §23-69-123.

Stockholders, §23-69-122.

Public officers and employees.

Commissioner generally.

See INSURANCE.

State employees insurance advisory
committee.

See INSURANCE.

Railroads.

Casualty insurance.

Railroad accidents not to be
considered in automobile
insurance, §23-89-302.

Employees.

Liability for injury or death of
employee.

Contracts of indemnity insurance
no defense, §23-12-507.

Rates and charges.

Administrative procedures,
§23-67-222.

Advisory organizations.

Examinations, §23-67-220.

PROPERTY INSURANCE —Cont'd**Rates and charges —Cont'd****Advisory organizations —Cont'd**

Filing of advisory documents,
§23-67-217.

Licenses, §23-67-214.

Permitted activities, §23-67-216.

Prohibited activities, §23-67-215.

Credit life and health insurance.

Schedule, §23-87-113.

Criteria for rating, §23-67-209.

Definitions, §23-67-202.

Disapproval of rates, §23-67-213.

Dividends.

Payment, §23-67-204.

Employers' liability insurance,
§23-67-219.

Examinations, §23-67-220.

Exemptions from chapter, §23-67-206.

Filing of rates, §23-67-211.

Open to inspection, §23-67-212.

Procedural requirements,
§23-67-212.

Time for filing, §23-67-219.

Fire protection impact statement,
§23-88-104.

Mutual assessment life and disability
insurers.

Adjustment of rates or benefits,
§23-72-112.

Level or stipulated rate plans.

Benefits and payment, §23-72-113.

Defined, §23-72-101.

Noncompetitive market.

Filing of rates, §23-67-211.

Hearings, §23-67-207.

Standards, §23-67-207.

Penalties.

Violations, §23-67-205.

Rating plans, §23-67-210.

Records.

Filing, §23-67-218.

Reports.

Filing, §23-67-218.

Scope of provisions, §23-67-203.

Standards.

Modifications, §23-67-210.

Requirements, §23-67-208.

Workers' compensation, §23-67-219.

Real property.

Investments.

Chattel mortgages, §23-63-827.

Limitations, §23-63-828.

Mortgages, §23-63-826.

Time limit for disposal of real estate,
§23-63-829.

Failure to dispose of real estate,
§23-63-831.

PROPERTY INSURANCE —Cont'd
Receivership.

Holding companies, §23-63-523.

Property and casualty insurance guaranty.

Duties of receiver, §23-90-116.

Risk-based capital act, §§23-63-1301 to 23-63-1316.See **INSURANCE**.**Risk-sharing plans for property and casualty insurance.**

Board.

Governing board, §23-95-103.

Construction and interpretation.

Effect of chapter upon prior laws, §23-95-102.

Governing board, §23-95-103.

Hearings.

Availability of amount or kind of insurance, §23-95-104.

Immunity from liability, §23-95-107.

Intent of chapter, §23-95-101.

Liability.

Immunity, §23-95-107.

Prior laws.

Effect of chapter upon, §23-95-102.

Purposes of chapter, §23-95-101.

Required plan.

Information about services prescribed in plan.

Participating insurers to provide, §23-95-106.

Participation by insurer in losses and expenses, §23-95-105.

Requirements, §23-95-105.

Voluntary plan not approved or submitted to commissioner.

Commissioner to promulgate plan to provide insurance coverage, §23-95-104.

Rules and regulations.

Promulgation by commissioner, §23-95-108.

Voluntary plan.

Information about services prescribed.

Participating insurers to provide, §23-95-106.

Insurers within state to prepare, §23-95-104.

Participation by insurer in losses and expenses, §23-95-105.

Requirements, §23-95-105.

Submission to commissioner for approval, §23-95-104.

Rural risk underwriting association, §§23-88-301 to 23-88-309.

Appeals, §23-88-309.

PROPERTY INSURANCE —Cont'd
Rural risk underwriting association —Cont'd

Commissioner's powers and duties, §23-88-308.

Governing board, §23-88-304.

Insurer.

Defined, §23-88-302.

Legislative intent, §23-88-301.

Liability of insurer, §23-88-307.

Net direct written premiums.

Defined, §23-88-302.

Person.

Defined, §23-88-302.

Plan of property insurance, §23-88-303.

Promulgation and approval, §23-88-305.

Provisions, §23-88-306.

Valued policy law.

Property insurance, total loss by fire or natural disaster, §23-88-101.

PROSECUTING ATTORNEYS.**Railroads.**

Freight.

Recovery of penalties.

Fee of prosecuting attorney, §23-10-406.

Headlights.

Candlepower requirements.

Enforcement, §23-12-402.

Recovery of penalties under act, §23-12-805.

PROTECTED CELL COMPANY ACT, §§23-63-1701 to 23-63-1709.See **INSURANCE COMPANIES**.**PROTECTIVE ORDERS.****Public service commission.**

Public records, §23-2-316.

State highway and transportation department.

Public records, §23-2-316.

PROVISIONAL REMEDIES.**Injunctions generally.**See **INJUNCTIONS**.**PRUDENT INVESTOR RULE.****Trustees.**

Language invoking standard, §23-51-209.

Trust companies, §23-51-200.

PUBLICATION.**Building and loan associations.**

False advertisements or reports of financial condition.

Penalty, §23-38-402.

PUBLICATION —Cont'd**Building and loan associations**

—Cont'd

Reports by bank commissioner to governor, §23-38-102.

Fraternal benefit societies.

Notices.

Required notices, §23-74-202.

Notice.

General provisions.

See NOTICE.

Risk-based capital act.

Total adjusted capital compared to RBC levels.

Prohibited, §23-63-1309.

PUBLIC CORPORATIONS FOR MUNICIPAL FACILITIES.

See MUNICIPAL CORPORATIONS.

PUBLIC OFFICERS AND EMPLOYEES.**Bank department.**

Staff, §23-46-206.

Conflicts of interest, §23-46-207.

Insurance.

Commissioner.

See INSURANCE.

Railroads.

Passes.

Government officials.

See RAILROADS.

PUBLIC ROADS.**General provisions.**

See HIGHWAYS.

PUBLIC SERVICE COMMISSION.**Accounts and accounting.**

Systems of accounts.

Authority to establish, §23-2-306.

Actions.

Compelling compliance with provisions of act and orders, §23-1-104.

Appeals.

Navigable water crossings.

Generally, §§23-3-511, 23-3-512.

Orders.

Judicial review, §23-2-423.

Effect, §23-2-424.

Appointment of members.

Special commissioners for hearings, §23-2-102.

Arkansas renewable energy development act of 2001,

§§23-18-601 to 23-18-604.

Assistant general counsel, §23-2-106.**Attorneys at law.**

Assistant general counsel, §23-2-106.

Practice of law.

Restrictions on activities of members and employees, §23-2-107.

PUBLIC SERVICE COMMISSION

—Cont'd

Bonds, surety, §23-2-101.**Burden of proof.**

Person seeking to avoid compliance with act or orders, §23-2-417.

Chairman.

Designation, §23-2-101.

Complaints to commission.

Separation or consolidation of complaints, §23-2-416.

Service of copy of complaint, §23-3-119.

Who may complain, §23-3-119.

Composition, §23-2-101.**Confidentiality of information.**

Electric utility bills, usage and payment records, §23-2-304.

Costs.

Contest before commission.

Unsuccessful party to be taxed with costs, §23-2-428.

Deposit of costs.

Commission not required to deposit, §23-2-428.

Court of appeals.

Appeals.

Orders of commission.

Jurisdiction, §23-2-423.

Depositions, §23-2-412.**Disconnections.**

Electricity service.

Protection against, §23-2-304.

Electric cooperative corporations.

Jurisdiction of commission,

§§23-18-201, 23-18-308.

Rates and charges.

See ELECTRIC COOPERATIVE CORPORATIONS.

Energy conservation.

Authority of commission, §23-3-405.

Environmental and economic protection.

See PUBLIC UTILITIES.

Evidence.

Copies of official papers, §23-1-111.

Rules of evidence, §23-2-403.

Expenses.

Payment, §§23-2-108, 23-2-110.

Time of payment, §23-2-111.

Record of cost of operation and maintenance, §23-2-108.

Travel expenses, §23-2-109.

Federal aid.

Certain loans not within jurisdiction of commission, §23-18-202.

PUBLIC SERVICE COMMISSION

—Cont'd

Fees.

Schedule of fees, §23-2-314.

Hearings, §23-2-415.

Environmental and economic protection.

Certificates of environmental compatibility and public need.

Hearing on application or amendment, §§23-18-516 to 23-18-518.

Navigable water crossings.

Petition by river crossing proprietor.

Hearing on, §23-3-505.

Notice, §23-2-415.

Place of hearing, §23-2-103.

Rehearings, §23-2-422.

Special commissioners for hearings, §23-2-102.

Compensation, §23-2-102.

Inventories.

Commission may require inventories of property, §23-2-307.

Investigations.

Commissioner or examiner, §23-2-429.

Powers of commission, §§23-2-310, 23-2-402.

Rates, charges, or service of utilities.

Preliminary investigation, §23-3-118.

Surcharge to recover expenditures mandated by public authorities, §23-4-505.

Service of utilities.

Preliminary examination, §23-3-118.

Jurisdiction, §§23-2-301, 23-3-202.

Actions by or against commission, §23-1-108.

Appeals of orders.

Court of appeals, §23-2-423.

Electric cooperative corporations, §§23-18-201, 23-18-308.

Federal aid.

Certain loans not within jurisdiction of commission, §23-18-202.

Intrastate transportation services, §23-2-303.

Rate making.

Exclusive jurisdiction, §23-4-201.

Rural telecommunications cooperatives, §23-17-206.

Jury.

Actions by or against commission.

Tried without jury, §23-1-110.

Misdemeanors.

Subpoenas.

Refusal to comply, §23-2-409.

PUBLIC SERVICE COMMISSION

—Cont'd

Navigable water crossings.

See PUBLIC UTILITIES.

Notice.

Appeals, §23-2-423.

Hearings, §23-2-415.

Service, §23-2-405.

Oaths.

Administration of oaths, §23-2-406.

Oath of office, §23-2-101.

Offices, §23-2-103.**Orders.**

Amendment, §23-2-426.

Compliance with orders.

Burden of proof on person seeking to avoid compliance, §23-2-417.

Power to compel, §23-1-104.

Required, §23-1-103.

Contracts in violation of orders void, §23-1-112.

Copies as evidence, §23-2-420.

Definition of "commission," §23-2-401.

Judicial review, §23-2-423.

Effect, §23-2-424.

Rehearings, §23-2-422.

Effect, §23-2-424.

Rescinding, §23-2-426.

Service, §23-2-421.

Stays, §23-2-424.

Sufficiency of detail, §23-2-421.

Time for compliance, §23-2-421.

Extension, §23-2-421.

Time for making, §23-2-421.

Violations.

Penalties, §23-1-103.

Written orders required, §23-2-420.

Penalties.

Subpoenas.

Failure to comply, §23-2-409.

Perjury.

Witnesses, §23-2-413.

Permits.

Assignability.

Indeterminate permits granted under 1919 act, §23-1-113.

Personnel.

Assistant general counsel, §23-2-106.

Power to employ, §23-2-105.

Restrictions on activities of employees, §23-2-107.

Petitions.

Appeals.

Orders of commission, §23-2-423.

PUBLIC SERVICE COMMISSION

—Cont'd

Pipelines.

State highway and transportation department or state highway commission.

Authority conferred and vested in concerning regulation of pipeline companies.

Transferred, vested and conferred upon public service commission, §23-2-209.

Pleading, §23-2-403.

Powers, §23-2-301.

Enumeration, §23-2-304.

Organization or reorganization of utilities, §23-3-101.

Rate making, §23-4-201.

Subpoena power, §§23-2-313, 23-2-407.

Public utilities.

General provisions.

See PUBLIC UTILITIES.

Qualifications of members, §23-2-101.

Quorum, §23-2-419.

Votes necessary for action, §23-2-104.

Records.

Appeals.

Orders of commission, §23-2-423.

Cost of operation and maintenance, §23-2-108.

Open to public, §23-2-316.

Protective orders, §23-2-316.

Proceedings before commission, §23-2-418.

Renewable energy development,

§§23-18-601 to 23-18-604.

Reports.

Annual report to governor, §23-2-315.

Right of entry, §§23-2-310, 23-2-311.

Rules and regulations.

Compliance required, §23-1-103.

Powers of commission, §23-2-305.

United States government regulations.

Commission regulations not to conflict with, §23-18-203.

Violations.

Penalties, §23-1-103.

Rural and community liaison,

§23-2-112.

Rural telecommunications cooperatives.

Commission defined, §23-17-202.

Consolidation.

Approval of commission required, §23-17-224.

PUBLIC SERVICE COMMISSION

—Cont'd

Rural telecommunications cooperatives —Cont'd

General provisions, §§23-17-201 to 23-17-242.

See RURAL

TELECOMMUNICATIONS COOPERATIVES.

Jurisdiction of commission, §23-17-206.

Salaries, §23-2-101.

Assistant general counsel, §23-2-106.

Payment, §23-2-110.

Time of payment, §23-2-111.

Service of process, §23-2-405.

Orders, §23-2-421.

Subpoenas.

Failure to comply, §23-2-409.

Powers of commission, §§23-2-313, 23-2-407.

Production of books and records, §23-2-408.

Telephones.

Universal telephone service act.

See TELEPHONES.

Terms of office, §23-2-101.

Time.

Appeals.

Notice of appeal, §23-2-423.

Rehearings.

Application for, §23-2-422.

Transportation.

Free transportation for commissioners and employees, §23-2-109.

Universal telephone service act.

See TELEPHONES.

Votes necessary for action, §23-2-104.

Witnesses.

Compelling attendance and testimony, §23-2-313.

Depositions, §23-2-412.

Exemption from prosecution based on testimony, §23-2-411.

False testimony.

Penalties, §23-1-105.

Fees, §23-2-414.

Mileage, §23-2-414.

Perjury, §23-2-413.

Refusal to attend or testify.

Contempt proceedings, §23-2-410.

Self-incrimination.

No bar to testimony, §23-2-411.

Subpoena power, §§23-2-313, 23-2-407.

PUBLIC TRUSTS.**General provisions.**

See TRUSTS AND TRUSTEES.

PUBLIC UTILITIES.**Accounts and accounting.**

Powers of regulatory commissions as to, §23-2-306.

Acquisition, control or merger.**Appeals.**

Judicial review of orders of commission, §23-3-313.

Stay of order pending review, §23-3-314.

Application for approval.

Filing, §23-3-303.

Review, §23-3-303.

Commission.

Judicial review of orders, §23-3-313.

Stay of order pending review, §23-3-314.

Powers, §23-3-305.

Definitions, §23-3-302.

Disapproval.

Grounds, §23-3-310.

Exemption from act, §23-3-303.

Expenses.

Investigations, §23-3-309.

Hearings.

Determination, §23-3-311.

Notice, §23-3-311.

Rehearing, §23-3-312.

Stay of order pending review, §23-3-314.

Injunctions.

Violation of provisions of act, §23-3-316.

Investigations.

Expenses, §23-3-309.

Judicial review, §23-3-313.

Stay of order pending review, §23-3-314.

Jurisdiction.

Court jurisdiction, §23-3-315.

Legislative purpose of act, §23-3-301.

Notice.

Hearing, §23-3-311.

Procedure.

Generally, §23-3-306.

Restrictions, §23-3-306.

Service of process.

Agent, §23-3-315.

Statement to be filed with commission, §23-3-307.

Amendments, §23-3-307.

Combination of statements, §23-3-308.

Contents, §23-3-307.

Stay of order pending review, §23-3-314.

Violation of provisions.

Evidence, §23-3-316.

Injunctions, §23-3-316.

PUBLIC UTILITIES —Cont'd**Acquisition, control or merger**

—Cont'd

Violation of provisions —Cont'd

Penalties, §23-3-304.

Actions.**Jurisdiction.**

Actions by or against commission, §23-1-108.

Jury.

Actions to be tried without jury, §23-1-110.

Advertising.

Recovery of advertising costs.

Definitions, §23-4-207.

Exceptions to prohibitions, §23-4-207.

Informational advertising.

Defined, §23-4-207.

Political advertising.

Defined, §23-4-207.

Prohibited, §23-4-207.

Promotional advertising.

Defined, §23-4-207.

Agents.

Acts of agent are acts of corporation, §23-1-107.

Appeals.

Acquisition, control or merger.

Judicial review of orders of commission, §23-3-313.

Stay of order pending review, §23-3-314.

Environmental and economic protection.

Certificates of environmental compatibility and public need.

Decisions of commission on application for, §23-18-524.

Navigable water crossings, §§23-3-511, 23-3-512. See within this heading, "Navigable water crossings."

Arkansas renewable energy development act of 2001,
§§23-18-601 to 23-18-604.

Certificates of public convenience and necessity.

New construction or extension.

Application for certificate, §23-3-203.

Notice, §23-3-203.

Complaints.

Unauthorized construction or operation, §23-3-206.

Issuance, §23-3-205.

Required, §23-3-201.

Exceptions, §23-3-201.

Unauthorized construction or operation, §23-3-206.

PUBLIC UTILITIES —Cont'd**Certificates of public convenience and necessity —Cont'd**

- Order preliminary to issuance, §23-3-204.
- Hearing on application, §23-3-205.
- Permits.
 - Operation under suspended permit.
 - Prohibited except under certificate of necessity, §23-3-202.
- Telecommunications.
 - Completing local exchange carrier, §23-17-409.

Coal.

- Electricity.
 - Arkansas-mined coal.
 - Use by electric utilities, §23-18-105.

Collective bargaining.

- Rates and charges.
 - Establishment of rates by public service commission.
 - No changes allowed in terms of employment subject to collective bargaining agreements, §23-4-421.

Complaints to regulatory commission.

- Separation or consolidation of complaints, §23-2-416.
- Service of copy of complaint, §23-3-119.
- Who may complain, §23-3-119.

Compliance with provisions.

- Required, §23-1-103.

Consolidation.

- Approval by regulatory commissions, §23-3-102.

Construction outside state.

- Approval required, §23-18-104.
- Costs.
 - Disallowance for failure to obtain prior approval, §23-18-104.
- Exempt utilities, §23-18-104.
- Notice of proposed construction, §23-18-104.

Consumer utilities rate advocacy division.

- Citation of subchapter, §23-4-301.
- Creation, §23-4-303.
- Director, §23-4-304.
- Duties.
 - Generally, §23-4-305.
- Establishment, §23-4-303.
- Intervention by others not precluded, §23-4-306.
- Legislative findings, §23-4-302.

PUBLIC UTILITIES —Cont'd**Consumer utilities rate advocacy division —Cont'd**

- Powers and duties.
 - Generally, §23-4-305.
- Purpose, §23-4-302.
- Records, §23-4-307.
- Staff, §23-4-304.
- Title of subchapter, §23-4-301.

Contracts.

- Interruptable contracts for service with industrial users.
- Power of utilities to make, §23-3-117.
- Violation of act or orders of commission.
- Void contracts, §23-1-112.

Court of appeals.

- Acquisition, control or merger.
- Judicial review of orders of commission, §23-3-313.
- Stay of order pending review, §23-3-314.

Courts.

- Environmental and economic protection.
- Jurisdiction of courts, §23-18-525.

Damages.

- Franchises.
 - Municipal franchises.
 - Violation, §23-3-116.

Definitions, §§23-1-101, 23-3-120.

- Acquisition, control or merger, §23-3-302.
- Advertising.
 - Recovery of advertising costs, §23-4-207.
- Electricity.
 - Avoided costs, §23-3-702.
 - Purchase from affiliated company, §23-18-103.
- Environmental and economic protection, §23-18-503.
- Navigable water crossings, §23-3-501.

Deposits.

- Consumer deposits.
 - Interest on, §23-4-206.

Discrimination.

- Complaints to commission, §23-3-119.
- Investigations.
 - Preliminary investigation by commission, §23-3-118.
- Unreasonable preferences prohibited, §23-3-114.

Earnings.

- Gross earnings.
 - Annual fees to be charged utilities.
 - Basis, §23-3-110.

PUBLIC UTILITIES —Cont'd**Earnings —Cont'd**

Gross earnings —Cont'd

Annual statement to be submitted to commission, §23-3-109.

Electricity.

Acquisition of energy, capacity and generation assets.

Rules and regulations regarding, adoption by commission, §23-18-106.

Alternative methods to meet obligations, utilization.

Rules and regulations regarding, adoption by commission, §23-18-106.

Avoided costs.

Definitions, §23-3-702.

Legislative declaration, §23-3-701.

Policy of state, §23-3-701.

Public service commission.

Definition of "commission," §23-3-702.

Rates.

Establishment, §23-3-703.

Rates.

Basis of rate determination, §23-3-704.

Contract rates.

Lower contract rates permitted, §23-3-705.

Defined, §23-3-703.

Establishment, §23-3-703.

Lower contract rates permitted, §23-3-705.

Waiver of avoided cost standard, §23-3-704.

Coal.

Arkansas-mined coal.

Use by electric utilities, §23-18-105.

Comprehensive resource planning.

Rules and regulations regarding, adoption by commission, §23-18-106.

Confidentiality.

Utility bills, usage and payment records, §23-2-304.

Disconnections.

Protection against, public service commission, §23-2-304.

Incremental resources, acquisition or construction.

Costs and return associated with, recovery and allowance, §23-18-107.

Purchase from affiliated company.

Applicability of act, §23-18-103.

Definitions, §23-18-103.

PUBLIC UTILITIES —Cont'd**Electricity —Cont'd**

Purchase from affiliated company —Cont'd

Prior approval of commission required, §23-18-103.

Regulations.

Promulgation, §23-18-103.

Void agreements, §23-18-103.

Transfer of electric transmission lines.

Approval of public service commission required, §23-3-102.

Transition costs.

Defined, recovery by electric utility, §23-4-209.

Eminent domain.

Environmental and economic protection, §23-18-528.

Employers and employees.

Acts of employee are acts of corporation, §23-1-107.

Energy conservation.

Citation of act.

Short title, §23-3-401.

Functions of utilities.

Conservation declared proper utility function, §23-3-404.

Legislative declaration, §23-3-402.

Programs and measures by utilities.

What constitutes, §23-3-403.

Public service commission.

Authority, §23-3-405.

Purpose of provisions, §23-3-402.

Title of act.

Short title, §23-3-401.

Environmental and economic protection.**Appeals.**

Certificates of environmental compatibility and public need.

Decision of commission on application for, §23-18-524.

Certificates of environmental compatibility and public need.

Amendments, §23-18-515.

Hearings, §§23-18-516 to 23-18-518.

Appeals.

Decision of commission on application for certificate, §23-18-524.

Application.

Commentary by state agencies, §23-18-512.

Contents, §23-18-511.

Decisions of commission, §23-18-519.

Appeal, §23-18-524.

PUBLIC UTILITIES —Cont'd
Environmental and economic protection —Cont'd

- Certificates of environmental compatibility and public need —Cont'd
 - Application —Cont'd
 - Decisions of commission —Cont'd
 - Findings of fact required, §23-18-520.
 - Deficiency letters, §23-18-514.
 - Fees, §23-18-512.
 - Hearing on, §§23-18-516 to 23-18-518.
 - Modification, §23-18-519.
 - Notice, §23-18-513.
 - Service of copies, §23-18-513.
 - Compliance with certificate required, §23-18-522.
 - Denial of certificate.
 - Decision of commission, §23-18-519.
 - Appeals, §23-18-524.
 - Findings of fact required, §23-18-520.
 - Fees.
 - Application fee, §23-18-512.
 - Granting of certificate.
 - Decision of commission, §23-18-519.
 - Appeals, §23-18-524.
 - Findings of fact required, §23-18-520.
 - Hearing on application or amendment, §23-18-516.
 - Conduct of hearing, §23-18-517.
 - Joint hearings and orders, §23-18-507.
 - Parties, §23-18-517.
 - Intervention in certification proceedings, §23-18-517.
 - Issuance, §23-18-521.
 - Effect, §23-18-521.
 - Joint hearings and orders, §23-18-507.
 - Parties to certification proceedings, §23-18-517.
 - Required, §23-18-510.
 - Exceptions, §23-18-510.
 - Transfer, §23-18-523.
- Citation of act.
 - Short title, §23-18-501.
- Courts.
 - Jurisdiction, §23-18-525.
- Definitions, §23-18-503.
- Department of environmental quality.
 - Jurisdiction, §23-18-506.
- Eminent domain, §23-18-528.

PUBLIC UTILITIES —Cont'd
Environmental and economic protection —Cont'd

- Exemptions from chapter, §23-18-504.
 - Waiver, §23-18-504.
 - Forecasts of loading and resources, §23-18-529.
 - Joint hearings and orders, §23-18-507.
 - Legislative declaration, §23-18-502.
 - Local governments.
 - Powers, §23-18-526.
 - Major utility facilities.
 - Defined, §23-18-503.
 - Municipal electric consolidated authority.
 - Jurisdiction or regulatory authority of commission, §23-18-532.
 - Powers of authority, §23-18-531.
 - Proposals of authority subject to act, §23-18-530.
 - Policy of state, §23-18-502.
 - Powers of commission restricted, §23-18-507.
 - Public service commission.
 - Consultants.
 - Additional consultants authorized, §23-18-509.
 - Definition of "commission," §23-18-503.
 - Joint hearings and orders, §23-18-507.
 - Power.
 - Limitations on, §23-18-507.
 - Rules and regulations.
 - Promulgation, §23-18-508.
 - Rules and regulations.
 - Promulgation, §23-18-508.
 - State agencies.
 - Cooperation with commission, §23-18-527.
 - Powers, §23-18-526.
 - Title of act.
 - Short title, §23-18-501.
 - Water and air pollution control act.
 - Unaffected by subchapter, §23-18-505.
- Fees.**
- Actions for fees brought in name of state, §23-1-109.
 - Annual fees charged utilities, §23-3-110.
 - Failure or refusal to pay.
 - Penalty, §23-3-110.
 - Statement of fees due, §23-3-110.
 - Time for payment, §23-3-110.
 - Carriers, §§23-16-101 to 23-16-106.
 - See CARRIERS.

PUBLIC UTILITIES —Cont'd**Fees —Cont'd**

- Environmental and economic protection.
- Certificates of environmental compatibility and public need.
- Application fee, §23-18-512.
- Public service commission.
- Schedule of fees, §23-2-314.

Felonies.

- False testimony, reports or entries on books, §23-1-105.

Foreign corporations.

- Domestication required, §23-3-108.
- Service of process, §23-3-108.

Forms.

- Filling out and returning, §23-3-112.

Franchises.

- Municipal franchises.
- Violation.
- Damages, §23-3-116.
- Penalties, §23-3-116.

Gas utilities extension projects,
§§23-3-601 to 23-3-607.

- See OIL AND GAS.

Gross earnings.

- Annual fees charged utilities.
- Basis, §23-3-110.
- Annual statement to be submitted to commission, §23-3-109.

Hearings.

- Acquisition, control or merger.
- Determination, §23-3-311.
- Notice, §23-3-311.
- Rehearing, §23-3-312.
- Stay of order pending review, §23-3-314.

Highways.

- Wires over public or private ways.
- Duties of utility, §23-3-115.

Information.

- Furnishing commission on request, §23-2-309.

Inspections.

- Books, papers, reports and statements, §23-2-309.
- Refusal to permit inspection.
- Effect, §23-2-312.

Interest.

- Deposits with public utilities, §23-4-206.

Interstate commerce.

- Exemptions from chapter, §23-1-102.
- Rates, charges and classifications.
- Authority of commission, §23-4-102.

PUBLIC UTILITIES —Cont'd**Intervention.**

- Environmental and economic protection.
- Certificates of environmental compatibility and public need.
- Parties to certification proceedings, §23-18-517.

Inventories.

- Commission may require inventories of property, §23-2-307.

Investigations.

- Powers of regulatory commission, §§23-2-310, 23-2-402.
- Preliminary investigation of rates, charges or service by commission, §23-3-118.
- Rates and charges.
- Change in rates.
- Investigation of proposed rates, §23-4-405.
- Surcharge to recover expenditures mandated by public authorities.
- Investigation by commission, §23-4-505.

Jurisdiction.

- Navigable water crossings.
- Public service commission, §23-3-503.

Jury.

- Actions by or against commission.
- Tried without jury, §23-1-110.

Liens.

- Creation under supervision of regulatory commission, §23-3-103.

Local governments.

- Environmental and economic protection.
- Powers of local governments, §23-18-526.

Major utility facilities.

- Construction.
- Environmental and economic protection, §§23-18-501 to 23-18-532.

Mandamus.

- Rates and charges.
- Change in rates.
- Petition, §23-4-417.

Motor carriers, §§23-13-101 to 23-13-406.

- See MOTOR CARRIERS.

Navigable water crossings.

- Appeals.
- Notice of petition for review, §23-3-511.
- Petition for review.
- Contents, §23-3-511.
- Notice, §23-3-511.

PUBLIC UTILITIES —Cont'd**Navigable water crossings —Cont'd****Appeals —Cont'd**

Powers of circuit court, §23-3-511.

Supreme court.

Appeal from circuit court to,
§23-3-512.

Transcript, §23-3-511.

Case determined on transcript,
§23-3-511.Applicability of provisions, §23-3-502.
Circuit courts.

Appeals to, §23-3-511.

Appeal to supreme court from,
§23-3-512.**Damages.**Exercise of crossing right by river
crossing proprietor, §23-3-510.

Definitions, §23-3-501.

Jurisdiction.Public service commission,
§23-3-503.

Public service commission.

Definition of "commission,"
§23-3-501.**Hearings.**Petitions by river crossing
proprietors, §23-3-505.

Jurisdiction, §23-3-503.

Order granting rights to river
crossing proprietor, §23-3-508.

Powers, §23-3-503.

Public service facilities.

Defined, §23-3-501.

River crossing proprietors.

Defined, §23-3-501.

Petitions by.

Contents, §23-3-504.

Costs and expenses of proceedings,
§23-3-510.Granting of prayer of petition,
§23-3-507.

Hearing on petition, §23-3-505.

Objections to, §23-3-506.

Replacing navigable water
crossing, §23-3-513.Replacing navigable water crossing
by, §23-3-513.**Rights.**

Order granting rights, §23-3-508.

Perpetual rights, §23-3-509.

Scope of provisions, §23-3-502.

Supreme court.

Appeals to, §23-3-512.

Notice.

Rates and charges.

Change in rates.

Changes allowed without notice,
§23-4-403.**PUBLIC UTILITIES —Cont'd****Notice —Cont'd**

Rates and charges —Cont'd

Change in rates —Cont'd

Intention to file application for
rate change, §23-4-401.

Proposed changes, §23-4-402.

Parties.Environmental and economic
protection.Certificates of environmental
compatibility and public need.Certification proceedings,
§23-18-517.**Penalties.**Actions for penalties brought in name
of state, §23-1-109.

Cumulative penalties, §23-1-106.

False testimony, reports or entries on
books, §23-1-105.**Franchises.**Violation of municipal franchise,
§23-3-116.

Rates and charges.

Billing.

Units charged for.

Failure of utility bill to show,
§23-4-203.

Disconnecting charges.

Violations of provisions, §23-4-204.

Schedules.

Bills rendered in accordance with.

Violations of provisions,
§23-4-202.Failure to furnish on request,
§23-4-202.Violations of act, orders or regulations,
§23-1-103, 23-1-114.**Permits.**Certificates of public convenience and
necessity.

Operation under suspended permit.

Prohibited except under certificate
of necessity, §23-3-202.Indeterminate permits granted under
1919 act.

Assignability, §23-1-113.

Preferences.Unreasonable preferences prohibited,
§23-3-114.**Railroads.**General provisions, §§23-11-101 to
23-11-223.

See RAILROADS.

Rates and charges.**Billing.**

Rate schedules.

Bills rendered in accordance with,
§23-4-202.

PUBLIC UTILITIES —Cont'd**Rates and charges —Cont'd****Billing —Cont'd**

Units charged for.

Bills must show, §23-4-203.

Change in rates.**Application for.**

Additional application for rate increase.

Time of filing, §23-4-419.

Apportionment of increase, §23-4-410.

Authority of commission to fix rate, §23-4-410.

Collection of rate, §23-4-412.

Conditional implementation of suspended rates, §23-4-411.

Effective date, §23-4-409.

Failure of commission to reach timely decision, §23-4-411.

Interim implementation of suspended rates, §23-4-408.

Investigations, §§23-4-405, 23-4-622.

Mandamus.

Petition, §23-4-417.

Notice.

Changes allowed without notice, §23-4-403.

Intention to file application for rate change, §23-4-401.

Proposed changes, §23-4-402.

Order.

Increase not effective until final order, §23-4-409.

Issuance of commission's order, §23-4-412.

Refunds of excessive bonded collections, §23-4-414.

Order not stayed during rehearing, §23-4-415.

Suspension of proposed rates, §23-4-407.

Procedure, §23-4-110.

Refunds of excessive bonded collections.

Order, §23-4-414.

Order not stayed during rehearing, §23-4-415.

Suit to compel refunds, §23-4-418.

Surcharge to collect excessive refunds, §23-4-416.

Reports.

Status of application, §23-4-420.

Schedules.

Proposed changes to be reflected in schedule, §23-4-404.

Surcharges.

Collection of excessive refunds, §23-4-416.

PUBLIC UTILITIES —Cont'd**Rates and charges —Cont'd****Change in rates —Cont'd****Surcharges —Cont'd**

Collection of rates increased on rehearing or by courts, §23-4-413.

Suspension of proposed rate, §23-4-407.

Interim implementation of suspended rates, §23-4-408.

Test periods, §23-4-406.

Time.

Order suspending proposed rates.

Time limitation on length of order, §23-4-407.

Collective bargaining agreements.

Establishment of rate by public service commission.

No changes allowed in terms of employment subject to collective bargaining agreements, §23-4-421.

Disconnecting charges.

Prohibited, §23-4-204.

Violations of provisions.

Penalty, §23-4-204.

Discrimination.

Unreasonable preferences prohibited, §23-3-114.

Electric cooperative corporations, §§23-4-901 to 23-4-909.

See **ELECTRIC COOPERATIVE CORPORATIONS.****Establishment.**

Authority of commission, §23-4-101.

Incremental resources, acquisition or construction by electric utility.

Costs and return associated with, recovery and allowance, §23-18-107.

Interstate rates and charges.

Authority of commission, §23-4-102.

Investigations.

Preliminary investigation by commission, §23-3-118.

Military installations.

Water and sewer services provided by municipality in county with population in excess of 200,000.

Petitioning public service commission to set rates, §23-4-208.

Minimum charges, §23-4-109.

Municipal corporations.

Divested of authority over rate making, §23-4-201.

PUBLIC UTILITIES —Cont'd**Rates and charges —Cont'd**

Overpayments.

Refunds, §23-4-205.

Plant or property included in rate base.

Determining value, §23-4-111.

Public service commission.

Exclusive jurisdiction as to rate making, §23-4-201.

Military installations.

Municipality in county with population in excess of 200,000.

Petitioning commission to exercise jurisdiction to set rates for water and sewer services, §23-4-208.

Railroads.

See RAILROADS.

Reasonable rates.

Required, §§23-4-103, 23-4-104.

Refunds, §23-4-205.

Schedules.

Bills rendered in accordance with, §23-4-202.

Penalty for violation, §23-4-202.

Change in rates.

Proposed changes to be reflected in schedule, §23-4-404.

Deviation.

Greater or less rate not to be charged, §23-4-107.

Filing, §23-4-105.

Furnishing on request, §23-4-202.

Penalty for failure to furnish, §23-4-202.

Public inspection, §23-4-106.

Sliding scales of rates, §23-4-108.

Surcharge to recover expenditures mandated by public authorities.

Calculation of amount of surcharge, §23-4-503.

Disapproval of surcharge, §23-4-507.

Filing interim rate schedules, §23-4-502.

Inadequate surcharges.

Additional surcharges, §23-4-509.

Intent of legislature, §23-4-501.

Investigation by commission, §23-4-505.

Legislative findings, §23-4-501.

Modification of surcharge, §23-4-507.

Refund of excessive surcharge, §23-4-506.

Rehearing.

Application no stay of order, §23-4-508.

PUBLIC UTILITIES —Cont'd**Rates and charges —Cont'd**

Surcharge to recover expenditures mandated by public authorities —Cont'd

Surcharge effective upon filing, §23-4-504.

Transition costs.

Defined, recovery by electric utility, §23-4-209.

Value of plant or property included in rate base.

Determining, §23-4-111.

Records.

Consumer utilities rate advocacy division, §23-4-307.

Refunds.

Surcharge to recover expenditures mandated by public authorities.

Excessive surcharge, §23-4-506.

Renewable energy development, §§23-18-601 to 23-18-604.**Reports.**

Annual reports, §23-2-308.

Environmental and economic protection.

Forecasts of loading and resources, §23-18-529.

Rate applications.

Reports on status of, §23-4-420.

Special reports, §23-2-308.

Right of entry.

Powers of regulatory commissions, §§23-2-310, 23-2-311.

Rules and regulations.

Powers of regulatory commissions, §23-2-305.

Violations.

Penalty, §23-1-103.

Safety.

Requirements, §23-3-113.

Service.

Complaints to commission, §23-3-119.

Discrimination.

Unreasonable preferences prohibited, §23-3-114.

Investigations.

Preliminary investigation by commission, §23-3-118.

Requirements, §23-3-113.

Service areas, §§23-18-101, 23-18-102.**Service of process.**

Complaints to regulatory commissions.

Service of copy of complaint, §23-3-119.

Foreign corporations, §23-3-108.

PUBLIC UTILITIES —Cont'd**Stays.**

- Acquisition, control or merger.
Stay of order pending review,
§23-3-314.

Stocks and bonds.

- Amount of issue, §23-3-105.
- Generally, §23-3-103.
- Issuance.
Proceeds.
Disposition, §23-3-106.
- Purposes, §23-3-104.
- Supervision of commission,
§23-3-103.
- When authorized, §23-3-104.
- Liability of state, §23-3-107.
- Proceeds.
Disposition, §23-3-106.
- Purchase of stock in another utility.
Approval by regulatory commissions
required, §23-3-102.

Telephone and telegraph companies,
§§23-17-101 to 23-17-121.

See TELEPHONE AND TELEGRAPH
COMPANIES.

Unregulated transactions.

- Transaction between utility and
divisions, components or affiliates.
Subject to rules promulgated by
commission, §23-3-102.

Water power companies, §§23-18-401
to 23-18-410.

See WATER POWER COMPANIES.

Waters and watercourses.

- Navigable water crossings, §§23-3-501
to 23-3-513. See within this
heading, "Navigable water
crossings."

Water power companies, §§23-18-401
to 23-18-410.

See WATER POWER COMPANIES.

Wires.

- Public or private ways.
Duty of utility as to wires over,
§23-3-115.

PUNITIVE DAMAGES.**Insurance.**

- Commercial property and casualty
insurance policies.
- Exclusion of punitive damages,
§23-79-307.

**Livestock killed or wounded by
railroad.**

- Arbitration of damages, §23-12-912.

PURCHASING GROUPS.**Risk retention and purchasing
groups,** §§23-94-201 to 23-94-215.

See RISK RETENTION AND
PURCHASING GROUPS.

Q**QUALITY ASSESSMENT AND
IMPROVEMENT SYSTEMS.****Managed health care plans,**
§§23-99-701 to 23-99-706.

See HEALTH MAINTENANCE
ORGANIZATIONS.

R**RACING.****Greyhound racing.**

See GREYHOUND RACING.

Horse racing.

General provisions, §§23-110-101 to
23-110-415.

See HORSE RACING.

RAILROAD POLICE.**Appointment.**

- Approval by governor, §23-12-701.
- Authorized, §23-12-701.

Arrest.

- Jailing of persons arrested,
§23-12-704.

Power to arrest, §23-12-703.

Badges, §23-12-705.**Bonds, surety,** §23-12-702.**Compensation,** §23-12-706.**Governor.**

Approval of appointment, §23-12-701.

Identification cards, §23-12-705.**Powers.**

Termination of powers, §23-12-707.

**Termination of railroad police
powers,** §23-12-707.**RAILROADS.****Accidents.**

- Clearing right-of-way following
derailment or wreck, §23-12-203.

Actions.

- Discrimination.
Recovery of penalties, §23-10-103.

Injuries.

Who may sue for personal injuries,
§23-12-903.

Advertising.

- Passes.
Issuance in exchange for advertising
space, §23-4-806.

Arbitration.

- Livestock.
Killing or injuring.
Arbitration of damages,
§23-12-912.

Arrest.

- Drunken persons.
Authority of conductors, §23-12-708.

RAILROADS —Cont'd**Arrest —Cont'd**

- Solicitation of business on train or in depot.
- Duty of trainmen to arrest violators, §23-10-208.
- Public places.
- Conductors authorized to make arrest, §23-12-708.

Attorney general.

- Passes.
- Permitted to accept and use pass, §23-4-804.

Attorneys at law.

- Suits against railroad companies for violations.
- Attorney's fee taxed, §23-12-105.

Auditor of state.

- Passes.
- Permitted to accept and use pass, §23-4-804.

Bells.

- Crossings.
- Bell or whistle to be sounded at crossing, §23-12-410.

Bills of lading.

- Charges specified in bill of lading controlling, §23-4-613.
- Delivery of goods on payment of charges shown in bill of lading, §23-4-613.
- Liability for refusal to deliver, §23-4-613.

Burden of proof.

- Livestock.
- Killing or injuring, §23-12-910.

Caboose cars.

- Applicability of provisions, §23-12-403.
- Existing cars undergoing general repairs, §23-12-403.
- Drinking water and cups.
- Required, §23-12-405.
- First aid kits.
- Required, §23-12-405.
- Misdemeanors.
- Equipment.
- Violation of equipment requirements, §23-12-405.
- Violations of requirements, §23-12-403.
- Penalties.
- Equipment.
- Violation of equipment requirements, §23-12-405.
- Violations of requirements, §23-12-403.
- Requirements for construction, §23-12-403.

RAILROADS —Cont'd**Caboose cars —Cont'd**

- Size.
- Requirements, §23-12-403.
- Violations of provisions.
- Penalty, §23-12-403.

Carriers generally.

See CARRIERS.

Clergymen.

- Free carriage.
- Authorized, §23-4-807.

Coal.

- Coal cars.
- Rates and charges.
- Switching charges, §23-4-612.
- Charge allowed when coal car is furnished, §23-4-612.
- Penalty for violations, §23-4-612.

Connecting lines.

- Formation.
- Aid to construction of other railroad authorized, §23-11-304.

Consolidation.

- Aiding other roads by purchasing stock when intending to form connection, §23-11-304.
- Articles of consolidation of purchase.
- Amount of capital stock, §23-11-310.
- Filing, §23-11-310.
- Authorized, §23-11-306.
- Connection of lines at state boundary line.
- Authorized, §23-11-305.
- Contract of consolidation, §23-11-305.
- Copy filed with secretary of state, §23-11-305.
- Execution, §23-11-305.
- Stock and stockholders.
- Issuance of stock, §23-11-305.
- Continuous line.
- Consolidation to effect, §23-11-306.
- Required, §23-11-306.
- Contract of consolidation.
- Consolidation when lines connect at state boundary line, §23-11-305.
- Copy of contract filed with secretary of state, §23-11-305.
- Execution, §§23-11-305, 23-11-306.
- Effect, §23-11-306.
- Foreign corporations.
- Consolidation with, §23-11-307.
- Liability for debts of all consolidated companies, §23-11-313.
- Time limit on claims, §23-11-313.
- Purpose, §23-11-306.

RAILROADS —Cont'd**Consolidation —Cont'd**

Rights and privileges of consolidated companies, §23-11-312.

State boundary line.

Consolidation when line connect at, §23-11-305.

Stock and stockholders.

Amount of capital stock of consolidated or merged corporation, §23-11-310.

Bonds issued by consolidating corporations, §23-11-308.

Consent required, §23-11-309.

Consolidation when lines connect at state boundary line.

Consent of stockholders, §23-11-309.

Issuance of stock, §23-11-305.

Ratification of consolidation proposal, §23-11-306.

Construction.

Railroad enjoining state.

Authorized, §23-11-303.

Construction and interpretation.

Freight.

Cumulative effect of act, §23-10-405.

Damages, §23-10-304.

Perishable freight.

Cumulative effect of provisions, §23-10-404.

Rates and charges, §23-4-601.

Contempt.

Discrimination.

Mandamus to enforce act.

Failure to comply, §23-4-719.

Contracts.

Conflicts of interest.

Officers interested in certain contracts.

Contracts void, §23-10-108.

Consolidation, §§23-11-305, 23-11-306.

Freight.

Liability.

Contracts abridging liability of railroad void, §23-10-408.

Monopolies.

Control of parallel or competing line.

Contracts for acquisition void, §23-11-311.

Corporations.

Abandonment of operations without authority.

Receivers, §23-12-613.

Stockholders to offer stock for sale, §23-12-612.

Penalty for violations, §23-12-612.

Applicability of provisions, §23-11-222.

RAILROADS —Cont'd**Corporations —Cont'd**

Application for incorporation, §23-11-204.

Hearing, §23-11-205.

Articles of incorporation.

Amendment.

Approval by agency, §23-11-220.

Fee, §23-11-220.

Procedure, §23-11-220.

Contents, §23-11-203.

Filing, §23-11-207.

Completion of incorporation upon, §23-11-208.

Charter.

Extension by agency, §23-11-223.

Filing, §23-11-207.

Completion of incorporation upon, §23-11-208.

Issuance, §23-11-206.

Order of agency, §23-11-205.

State highway and transportation department.

Extension by department, §23-11-223.

Citation of act.

Short title, §23-11-201.

Definition of "railroad corporation," §23-11-202.

Directors.

Bond issues.

Authority of board, §23-11-216.

Committees, §23-11-218.

Election, §23-11-213.

Free transportation for.

Authorized, §23-4-807.

Meetings, §23-11-214.

Number of directors, §23-11-213.

Officers.

Selection, §23-11-218.

Powers.

Generally, §23-11-215.

President.

Election by director, §23-11-218.

Terms of office, §23-11-213.

Dissolution, §23-11-211.

Executors and administrators.

Voting of stock, §23-11-212.

Fees.

Amendment of articles of incorporation, §23-11-220.

Foreign corporations.

Fees charged foreign companies, §23-3-111.

Incorporation fees, §23-11-102.

Fiduciaries.

Voting of stock, §23-11-212.

RAILROADS —Cont'd**Corporations —Cont'd**

Foreign corporations.

Consolidation with, §23-11-307.

Construction of railroads in state.

Authorized, §23-11-401.

Domestication.

Required, §23-3-108.

Fees charged foreign railroads,
§23-3-111.Purchase or lease of state roads,
§23-11-402.Right to construct railroads in state,
§23-11-401.

Sale or lease of road or property.

Lessor and lessee of railroad
subject to laws, §23-11-403.Purchase or lease of state roads
by, §23-11-402.To connecting foreign railroad,
§23-11-302.

Service of process, §23-3-108.

Taxation.

Right to tax uncurtailed,
§23-11-404.

Guardians.

Voting of stock, §23-11-212.

Hearings.

Application for incorporation,
§23-11-205.

Liabilities, §23-11-209.

Liquidation, §23-11-221.

Number of incorporators, §23-11-204.

Officers.

Election or appointment, §23-11-218.

Free transportation for.

Authorized, §23-4-807.

Powers, §23-11-209.

President.

Election by directors, §23-11-218.

Receivers.

Abandonment of operations without
authority, §23-12-612.

Saving clause.

Extension of existence of existing
corporations, §23-11-222.

Stock and stockholders.

Application for incorporation.

Contents.

Information as to stock,
§23-11-204.

Consolidation.

Amount of capital stock of
consolidated corporation,
§23-11-310.

Consent required, §23-11-309.

RAILROADS —Cont'd**Corporations —Cont'd**

Stock and stockholders —Cont'd

Consolidation —Cont'd

Consolidation when lines connect
at state boundary line.Consent of stockholders,
§23-11-309.

Issuance of stock, §23-11-305.

Ratification of consolidation
proposal, §23-11-306.

Notice of meetings, §23-11-306.

Dividends.

Declaration, §23-11-217.

Payment, §23-11-217.

Executors and administrators.

Voting of stock, §23-11-212.

Fiduciaries.

Voting of stock, §23-11-212.

Guardians.

Voting of stock, §23-11-212.

Issuance of bonds or certificates of
indebtedness, §23-11-216.

Meetings of stockholders.

Annual meeting, §23-11-211.

Consolidation.

Ratification of consolidation
proposal, §23-11-306.

Election of directors, §23-11-213.

First meeting, §23-11-210.

Notice, §23-11-211.

First meeting, §23-11-210.

Ratification of consolidation
proposals, §23-11-306.

Special meeting, §23-11-211.

Notice.

Consent of stockholders for
purchase of stock, lease or
consolidation of railroad,
§23-11-309.Subscription contracts for sale of
stock, §23-11-219.

Voting of stock, §23-11-212.

Fiduciaries, §23-11-212.

Title of act.

Short title, §23-11-201.

Crossings.

Bells.

Bell or whistle to be sounded at
crossing, §23-12-410.

Construction.

State highway commission.

Jurisdiction over, §23-12-304.

Hearings.

Proposed road or street crossings,
§23-12-304.

RAILROADS —Cont'd**Crossings —Cont'd**

Highways.

Injunctions.

Improper crossing of highway and railroad, §23-12-306.

Right angles.

Public roads to cross railroads at, §23-12-306.

Injunctions.

Improper crossing of highway and railroad, §23-12-306.

Location.

State highway commission.

Jurisdiction, §23-12-304.

Notice.

Orders of state highway commission, §23-12-304.

Orders of state highway commission, §23-12-304.

Other railroads.

Connections or crossings with, §23-12-303.

Compensation for.

Ascertainment by court, §23-12-303.

Stoppage of trains at railroad intersections, §23-12-602.

Transfer of passengers of freight at intersection, §23-12-602.

Penalties.

Bell or whistle to be sounded at crossing.

Violations of provisions, §23-12-410.

Proposed road or street crossings.

Inspection, §23-12-304.

Regulation of crossings.

Citation of act.

Short title, §23-12-1001.

Complaint of inadequate action or unreasonable refusal.

Action on complaint, §23-12-1005.

Complaints of unlawful delay.

Action on complaints, §23-12-1008.

Investigations.

State highway commission, §§23-12-1004, 23-12-1007.

Jurisdiction of state highway commission, §§23-12-1002, 23-12-1003.

Operation and movement of trains, §23-12-1006.

Penalties.

Inadequate action or unreasonable refusal, §23-12-1005.

Unlawful delay, §23-12-1008.

RAILROADS —Cont'd**Crossings —Cont'd**

Regulation of crossings —Cont'd

Rules and regulations, §§23-12-1004, 23-12-1007.

Title of act.

Short title, §23-12-1001.

State highway commission.

Inspection of proposed road or street crossings, §23-12-304.

Jurisdiction over construction and location, §23-12-304.

Regulation.

Complaint of inadequate action or unreasonable refusal.

Action on complaint, §23-12-1005.

Complaints of unlawful delay.

Action on complaints, §23-12-1008.

Investigations, §§23-12-1004, 23-12-1007.

Jurisdiction, §§23-12-1002, 23-12-1003.

Operation and movement of trains, §23-12-1006.

Rules and regulations, §§23-12-1004, 23-12-1007.

Supervision, §23-12-301.

Warning boards.

Required, §23-12-411.

Whistles.

Bell or whistle to be sounded at crossing, §23-12-410.

Damages.

Bell or whistle to be sounded at crossing.

Liability for violations, §23-12-410.

Connections or crossings with other railroads.

Ascertainment of amount of compensation by court, §23-12-303.

Discrimination.

Double damages for violations, §23-4-705.

Employees.

Hours of work.

Freight trains.

Contributory negligence no defense to injury actions when act violated, §23-12-509.

Freight.

Collection from agent, §23-10-304.

False affidavit as to damages.

Perjury, §23-10-304.

RAILROADS —Cont'd**Damages —Cont'd****Freight —Cont'd**

Collection from agent —Cont'd
 Treble damages on refusal to pay,
 §23-10-304.

Construction and interpretation,
 §23-10-304.

Furnishing cars for freight.
 Failure to furnish, §23-10-434.

Liability of carriers.
 Damage to goods in transit,
 §23-10-304.
 Express companies, §23-10-305.
 Penalty for failure to pay,
 §23-10-305.

Initial carrier, §23-10-303.

Perishable freight.
 Failure to forward, §23-10-440.
 Failure to furnish cars for,
 §23-10-438.

Subrogation, §23-10-303.
 Violations of provisions.
 Actions for damages, §23-10-431.
 Limitation of actions,
 §23-10-431.

Liability.
 Legislative intent, §23-12-901.
 Property damage, §23-12-902.
 Contributory negligence,
 §23-12-907.
 Restrictions on, §23-12-904.
 Fires, §23-12-913.

Refusal to transport passenger or
 property at appointed time,
 §23-12-601.

Stock guards.
 Failure to maintain stock guard.
 Liability, §23-12-412.

Stopping trains within town limits
 upon petition.
 Violations of provisions, §23-12-606.

Weeds.
 Permitting certain weeds to seed on
 right-of-way.
 Recovery of damages for maturing
 of weeds, §23-12-202.

Willful interference with railroad.
 Treble damages, §23-12-805.

Death.

Liability.
 Contributory negligence no complete
 defense, §23-12-904.

Definitions, §§23-10-101, 23-11-202.

Baggage, §23-10-209.

Employees.

Liability for injury or death of
 employees, §23-12-501.

RAILROADS —Cont'd**Definitions —Cont'd**

Engaged in transporting persons or
 property, §23-4-701.

Freight, §23-10-402.

Shipper, §23-10-401.

Locomotives, §23-12-405.

Passes.

Government officials, §23-4-801.

Depots.**Junctions.**

Passenger trains.

Crier.

Liability for acts of train crier,
 §23-10-205.

Penalty for failure to provide,
 §23-10-205.

Required, §23-10-205.

Departure only from depot at
 junction, §23-10-204.

Violations of provisions.
 Misdemeanors, §§23-10-205,
 23-10-206.

Misdemeanors.**Junctions.**

Passenger trains.

Violations of provisions,
 §§23-10-205, 23-10-206.

Penalties.

Failure or refusal to build depot and
 stop passenger trains at,
 §23-12-604.

Junctions.

Passenger trains.

Crier, failure or neglect to
 provide, §23-10-205.

Required, §23-12-604.

Penalty for failure or refusal to
 build, §23-12-604.

Union passenger or freight depots.
 When required, §23-12-605.

Stopping passenger trains at,
 §23-12-604.

Agency may require passenger
 trains to stop at all stations,
 §23-12-603.

Penalty for failure or refusal to stop,
 §23-12-604.

Union passenger or freight depots.

When required, §23-12-605.

Water closets, §23-10-201.

Derailment.

Clearing right-of-way following,
 §23-12-203.

Discrimination.**Actions.**

Recovery of penalties, §23-10-103.

Applicability of provisions, §23-4-702.

RAILROADS —Cont'd**Discrimination —Cont'd**

Complaints.

Investigations by state highway and transportation department.

Duty to investigate, §23-4-714.

Contempt.

Mandamus to enforce act.

Failure to comply, §23-4-719.

Cumulative effect of act, §23-4-704.

Damages.

Double damages for violations,
§23-4-705.

Freight, §23-4-710.

Connecting lines.

Forwarding freight over.

Preferences prohibited,
§23-10-411.

Contracts.

Pooling freight or dividing revenue prohibited, §23-4-711.

Drawback.

Prohibited, §§23-10-106,
23-10-410.

Long hauls.

Differentiation in compensation for long and short hauls.

Prohibited, §23-4-712.

Pooling.

Contracts for pooling freight prohibited, §23-4-711.

Prohibited, §23-10-410.

Short hauls.

Differentiation in compensation for long and short hauls.

Prohibited, §23-4-712.

Interstate commerce.

Provisions not to apply, §23-4-703.

Investigations.

Complaints.

State highway and transportation department.

Duty to investigate, §23-4-714.

Limitation of actions.

Actions for damages, §23-4-705.

Penalties.

Action to recover penalties,
§23-10-103.

Mandamus.

Enforcement of provisions,
§23-4-719.

Passengers.

Prohibited acts, §23-4-710.

Penalties, §23-10-103.

Actions to recover, §23-4-706.

RAILROADS —Cont'd**Discrimination —Cont'd**

Penalties —Cont'd

Books and papers of railroad companies.

Refusal to permit examination by state highway and transportation department,
§23-4-718.

Disposition of proceeds, §23-4-720.

Preferences as to services prohibited,
§23-10-104.

Rates and charges, §23-4-710.

Different lines operated by same company.

Applicability of provisions,
§23-10-102.

Passes.

Free transportation for certain persons not prohibited,
§23-10-107.

Prohibited, §23-10-105.

Rate sheets and tariff charges.

Furnishing state highway and transportation department,
§23-4-708.

Regulation of rates and charges by state highway and transportation department,
§23-4-708.

Schedules of rates.

Posting of printed schedules,
§23-4-707.

Reduced rate tickets allowed,
§23-4-713.

Scope of provisions, §23-4-702.

State highway and transportation department.

Books and papers of railroad companies.

Access to, §23-4-718.

Refusal to permit examination by department.

Penalties, §23-4-718.

Complaints.

Duty to investigate, §23-4-714.

Information furnished department,
§23-4-717.

Investigations.

Complaints.

Duty to investigate, §23-4-714.

Rates and charges.

Regulation by, §23-4-708.

Witnesses.

Officers compelled to attend and testify, §23-10-110.

Self-incrimination no bar,
§23-10-110.

RAILROADS —Cont'd**Drainage of roadbed.**

Requirements, §23-12-204.

Violation of provisions.

Notice, §23-12-204.

Penalty, §23-12-204.

Drinking water and cups.

Employees.

"Maintenance of way" employees.

Furnishing drinking water to,
§23-12-511.

Passengers.

Required on passenger train,
§23-10-202.

Waiting rooms, §23-10-201.

Required in locomotives and cabooses,
§23-12-405.

Penalty for violation, §23-12-405.

Drunkenness.

Arrest.

Authority of conductors to arrest
drunken persons and deliver to
peace officers, §23-12-708.

Public places, §23-12-708.

Engineer or conductor drunk.

Penalty, §23-12-807.

Employees.

Bonds, surety.

Employees of carriers, §§23-16-201
to 23-16-207.

See CARRIERS.

Damages.

Hours of work.

Freight trains.

Contributory negligence no
defense to injury actions
when act violated,
§23-12-509.

Death.

Liability for injury or death of
employee, §§23-12-501 to
23-12-507.

Drinking water.

"Maintenance of way" employees.

Furnishing drinking water to.

Duty of railroads, §23-12-511.

Enforcement of provisions,
§23-12-511.

Penalty for violations, §23-12-511.

Hospital facilities in state to be
provided, §23-12-508.

Penalty for violations, §23-12-508.

Hours of work.

Freight trains.

Damages.

Contributory negligence no
defense to injury actions
when act violated,
§23-12-509.**RAILROADS —Cont'd****Employees —Cont'd**

Hours of work —Cont'd

Freight trains —Cont'd

Limit on hours, §23-12-509.

Violations of provisions.

Contributory negligence no
defense to injury actions,
§23-12-509.

Penalty, §23-12-509.

Telephone and telegraph operators
for railroads.

Limit on hours, §23-12-510.

Penalty for violations, §23-12-510.

Action to recover, §23-12-510.

Payment without deduction,
§23-12-510.

Injuries.

Hospital fees.

Hospital facilities in state to be
provided, §23-12-508.

Hours of work.

Freight trains.

Contributory negligence no
defense to injury actions
when act violated,
§23-12-509.Liability for injury or death of
employee, §§23-12-501 to
23-12-507.Liability for injury or death of
employee.

Assumption of risk.

Employees not compelled to have
assumed risk, §23-12-506.

Construction and interpretation.

Effect of provisions on existing
laws, §23-12-502.Contracts of employment or
indemnity insurance no defense,
§23-12-507.Contributory negligence no defense,
§23-12-505.

Defective equipment, §23-12-503.

Presumption of knowledge,
§23-12-504.Prima facie evidence of negligence,
§23-12-504.

Definitions, §23-12-501.

Generally, §23-12-503.

Insurance.

Contracts of indemnity insurance
no defense, §23-12-507.

Setoff by employer, §23-12-507.

Misdemeanors.

Drinking water.

"Maintenance of way" employees.

Failure to furnish drinking
water to, §23-12-511.

RAILROADS —Cont'd**Employees —Cont'd**

Negligence.

Hours of work.

Freight trains.

Contributory negligence no
defense to injury actions
when act violated,
§23-12-509.

Liability for injury or death of
employee.

Generally, §§23-12-501 to
23-12-507.

Penalties.

Drinking water.

"Maintenance of way" employees.
Failure to furnish to,
§23-12-511.

Hospital fees.

Failure of railroad to provide
hospital facilities in state,
§23-12-508.

Hours of work.

Freight trains.

Violations of provisions,
§23-12-509.

Telephone and telegraph operators
for railroads.

Violations of provisions,
§23-12-510.

Safety, §§23-12-512, 23-12-513.

Safety.

Blocks in frogs and guardrails.

Required, §23-12-512.

Penalty for violation of
provisions, §23-12-512.

Liability for injury or death of
employee.

Generally, §§23-12-501 to
23-12-507.

Shelter where railroad equipment
constructed or repaired.

Penalty for failure to construct
proper shelter, §23-12-513.

Required, §23-12-513.

Engines.

Requirements as to construction.

Applicability, §23-12-401.

Generally, §23-12-401.

Violation of provisions.

Penalty, §23-12-401.

**Establishment, discontinuance,
modification, etc., of service.**

Findings.

Failure to comply with, §23-12-609.

Filing, §23-12-608.

Hearings on, §23-12-607.

RAILROADS —Cont'd**Establishment, discontinuance,
modification, etc., of service**

—Cont'd

Investigation of objects sought to be
accomplished, §23-12-608.

Petitions.

Authority of transportation safety
agency, §23-12-607.

Number of signatures, §23-12-610.

Reestablishment, §23-12-611.

Reestablishment of service.

Petitions, §23-12-611.

Executions.

Livestock.

Killing or injuring.

Judgments under provisions,
§23-12-906.

Executors and administrators.

Corporations.

Voting of stock, §23-11-212.

Fees.

Annual fee collected from rail carriers,
§23-16-104.

Carriers generally, §§23-16-101 to
23-16-106.

See CARRIERS.

Corporations.

Amendment of articles of
incorporation, §23-11-220.

Foreign corporations.

Fees charged foreign companies,
§23-3-111.

Incorporation fees, §23-11-102.

Incorporation fees, §23-11-102.

Fences.

Removal of fences for public
convenience, §23-12-308.

Notice to remove fence, §23-12-308.

Refusal to remove.

Penalty, §23-12-308.

Time allowed, §23-12-308.

Fiduciaries.

Corporations.

Voting of stock, §23-11-212.

Firearms.

Discharging firearms at cars.

Penalty, §23-12-804.

Fires and fire prevention.

Liability for fires, §23-12-913.

First aid kits.

Required in locomotives and cabooses,
§23-12-405.

Penalty for violation, §23-12-405.

Fraud.

Passengers.

Protection of passengers from fraud,
§23-10-207.

RAILROADS —Cont'd**Freight.**

Applicability of provisions, §23-10-403.
Arrival of freight.

Notice, §23-10-421.

Construction and interpretation.

Cumulative effect of act, §23-10-405.

Damages, §23-10-304.

Perishable freight.

Cumulative effect of provisions,
§23-10-404.

Damages.

Collection from agent, §23-10-304.

False affidavit as to damages.

Perjury, §23-10-304.

Treble damages on refusal to pay,
§23-10-304.

Construction and interpretation,
§23-10-304.

Furnishing cars for freight.

Failure to furnish, §23-10-434.

Liability of carriers.

Damage to goods in transit,
§23-10-304.

Express companies, §23-10-305.

Penalty for failure to pay,
§23-10-305.

Initial carrier, §23-10-303.

Perishable freight.

Failure to forward, §23-10-440.

Failure to furnish cars for,
§23-10-438.

Subrogation, §23-10-303.

Violations of provisions.

Actions for damages, §23-10-431.

Limitation of actions,
§23-10-431.

Definitions, §23-10-402.

Shipper, §23-10-401.

Delivery of freight, §23-10-419.

Penalty for delay, §23-10-419.

Demurrage charges.

Cars detained for fault of shipper,
§23-10-417.

Failure to timely load, §23-10-416.

Failure to unload, §23-10-424.

Generally, §23-10-412.

Perishable freight, §23-10-439.

Recovery of demurrage, §23-10-430.

Refusal of freight, §23-10-428.

Discrimination, §23-4-710.

Connecting lines.

Forwarding freight over.

Preferences prohibited,
§23-10-411.

Contracts.

Pooling freight or dividing revenue
prohibited, §23-4-711.

RAILROADS —Cont'd**Freight —Cont'd**

Discrimination —Cont'd

Drawback.

Prohibited, §§23-10-106,
23-10-410.

Long hauls.

Differentiation in compensation
for long and short hauls.

Prohibited, §23-4-712.

Pooling.

Contracts for pooling freight
prohibited, §23-4-711.

Prohibited, §23-10-410.

Short hauls.

Differentiation in compensation
for long and short hauls.

Prohibited, §23-4-712.

Exemptions from provisions,
§23-10-403.

Express offices.

Refusal to establish.

Penalty, §23-10-302.

Required in all first class cities,
§23-10-302.

Failure to furnish.

Damages, §23-10-434.

Free delivery limits.

Refusal to deliver packages within.

Penalty, §23-10-302.

State highway and transportation to
define, §23-10-302.

Furnishing cars for freight.

Cars of another railroad.

Liability for, §23-10-435.

Double-decked cars for sheep and
hog shipments, §23-10-442.

Duty to furnish cars to shippers,
§23-10-413.

Exceptions, §23-10-433.

Exchange of cars, §23-10-415.

Exception, §23-10-433.

Liability for failure to exchange,
§23-10-434.

Extra pay for.

Employee demanding or receiving.

Penalty, §23-10-429.

Failure to furnish.

Gross negligence in not furnishing
cars.

Penalty, §23-10-436.

Penalties, §§23-10-413, 23-10-436.

Grain, §23-10-443.

Interstate railroads, §23-10-414.

Penalties.

Failure to furnish cars,
§23-10-413.

Gross negligence in not
furnishing cars, §23-10-436.

RAILROADS —Cont'd**Freight —Cont'd**

- Furnishing cars for freight —Cont'd
 - Perishable freight, §23-10-438.
 - Request by shipper.
 - Definition of "shipper," §23-10-401.
 - Reasonable time, §23-10-432.
 - Return of cars, §23-10-415.
 - Rules and regulations, §23-10-437.

Grain.

- Furnishing cars for, §23-10-443.
 - Liability for loss of grain on failure to furnish, §23-10-443.

Liability.

- Contracts abridging liability of railroad void, §23-10-408.
- Rules abridging liability of railroads void, §23-10-408.

Limitation of actions.

- Damages for violations of act, §23-10-431.

Livestock or poultry.

- Double-decked cars for sheep and hog shipments.

Charges.

- Same charge as carload, §23-10-442.

Furnishing, §23-10-442.

- Charge of half of carload on failure to furnish, §23-10-442.

- Penalty for noncompliance, §23-10-441.

- Preference to be given livestock, §23-10-411.

- Shipper's pass, §23-10-441.

Loading.

- Demurrage charges, §23-10-416.
- Improper loading.
 - Cars detained for fault of shipper.
 - Demurrage, §23-10-417.
 - Notice, §23-10-417.

Inclement weather.

- Additional free time, §23-10-425.

Perishable freight.

- Time for loading, §23-10-439.
- Time for, §23-10-416.
 - Additional free time, §23-10-416.

Misdemeanors.

- Livestock or poultry.
 - Shipper's pass.
 - Noncompliance with requirement, §23-10-441.

Negligence.

- Furnishing cars for freight.
 - Gross negligence in not furnishing cars.
 - Penalty, §23-10-436.

RAILROADS —Cont'd**Freight —Cont'd****Notice.**

- Arrival of freight, §§23-10-420, 23-10-421.
- Consignees to be notified of arrival of freight, §23-10-420.
 - Penalty for failure to give notice, §23-10-420.
- Improper loading, §23-10-417.
- Refusal of freight.
 - Notice to consignor, §23-10-428.
- Sale of unclaimed goods, §23-10-306.
- Shipment to consignor's order, §23-10-422.

Penalties.

- Delivery of freight.
 - Delay, §23-10-419.
- Express companies.
 - Liability for loss.
 - Failure to repay damages, §23-10-305.
- Extra pay for furnishing car to shipper.
 - Employee demanding or receiving, §23-10-429.
- Furnishing car for freight.
 - Failure to furnish car for freight, §23-10-413.
 - Gross negligence in not furnishing cars, §23-10-436.

Livestock or poultry.

- Shipper's pass.
 - Noncompliance with requirement, §23-10-441.
- Notice to consignee of arrival of freight.
 - Failure to give notice, §23-10-420.
- Recovery of forfeitures and charges, §23-10-430.
- Recovery of penalties, §23-10-406.
- Refusal to establish offices or deliver packages, §23-10-302.
- Transportation of freight.
 - Violations of requirements, §23-10-418.
- Violations of act or rules of agency, §23-10-406.

Weighing.

- Noncompliance with provisions, §§23-10-444, 23-10-445.

Perishable freight.

- Cumulative effect of act, §23-10-404.
- Damages.
 - Failure to forward perishable freight, §23-10-440.
 - Failure to furnish cars for perishable freight, §23-10-438.

RAILROADS —Cont'd**Freight —Cont'd**

- Perishable freight —Cont'd
 - Demurrage, §23-10-439.
 - Forwarding, §23-10-440.
 - Furnishing cars for.
 - Duty to furnish, §23-10-438.
 - Loading.
 - Time for, §23-10-439.
 - Preferences, §23-10-411.
 - Remedies cumulative, §23-10-404.
- Rates and charges.
 - Crushed stone, sand and gravel, §23-4-614.
 - Overcharge.
 - Penalty, §23-4-614.
 - Free or reduced rate transportation permitted, §23-10-409.
- Short lines.
 - Maximum freight charge, §23-4-611.
 - Overcharge.
 - Penalty, §23-4-611.
 - Reduction of rates, §23-4-611.
- Receipt of freight.
 - Duty of railroad agents, §23-10-418.
- Refusal of freight.
 - Demurrage, §23-10-428.
 - Notice to consignor, §23-10-428.
- Remedies cumulative, §23-10-405.
- Perishable freight, §23-10-404.
- Rules and regulations, §23-10-301.
 - Furnishing and interchange of cars used for intrastate freight, §23-10-437.
- Liability.
 - Rules abridging liability of railroads void, §23-10-408.
 - Penalty for violation, §23-10-406.
 - Reasonable rules for transportation of freight permitted, §23-10-407.
- Sale of unclaimed goods, §23-10-306.
- State highway and transportation department.
 - Free delivery limits.
 - Agency to define, §23-10-302.
 - Furnishing and interchange of cars used for intrastate freight, §23-10-437.
 - Rules and regulations, §23-10-301.
 - Penalty for violation, §23-10-406.
- Transportation of freight, §23-10-418.
 - Reasonable rules permitted, §23-10-407.
 - Time freight to be in transit, §23-10-418.
- Unclaimed goods.
 - Sale, §23-10-306.

RAILROADS —Cont'd**Freight —Cont'd**

- Unloading.
 - Demurrage charges for failure to unload, §23-10-424.
 - Failure to unload.
 - Demurrage charges, §23-10-424.
 - Storage of freight after failure, §23-10-427.
 - Free time.
 - Extension of free time, §23-10-424.
 - Extension when consignee or consignor at distance from depot, §23-10-426.
 - Inclement weather, §23-10-425.
 - Inclement weather.
 - Additional free time for loading or unloading, §23-10-425.
 - Storage charges.
 - Package freight unloaded by railroad, §23-10-423.
- Weighing.
 - Certificate of weight.
 - Contents, §23-10-445.
 - Issuance, §§23-10-444, 23-10-445.
 - Duties of railroad companies, §§23-10-444, 23-10-445.
- Penalties.
 - Noncompliance with provisions, §23-10-444, 23-10-445.
 - Tracks scales to be maintained at stations, §23-10-444.
 - Noncompliance with provisions.
 - Penalty, §23-10-444.
- Frequency of trains.**
 - State highway and transportation department.
 - Powers of department, §23-12-104.
- General assembly.**
 - Passes.
 - Members permitted to accept and use passes, §23-4-804.
- Governor.**
 - Passes.
 - Permitted to accept and use pass, §23-4-804.
- Grain.**
 - Furnishing cars for grain, §23-10-443.
- Guardians.**
 - Corporations.
 - Voting of stock, §23-11-212.
- Hazardous substances and materials.**
 - Transportation of hazardous materials.
 - Documents required, §23-12-406.
- Headlights.**
 - Candlepower requirements.
 - Enforcement of requirements, §23-12-402.

RAILROADS —Cont'd**Headlights —Cont'd**

Candlepower requirements —Cont'd

Generally, §23-12-402.

Prosecuting attorneys.

Enforcement of provisions,
§23-12-402.

Violations of requirements.

Penalty, §23-12-402.

Hearings.

Corporations.

Application for incorporation,
§23-11-205.

Crossings.

Proposed road or street crossings,
§23-12-304.**Hospitals.**

Employees of railroads.

Facilities to be furnished,
§23-12-508.**Indigent persons.**

Free carriage.

Authorized, §23-4-807.

Injunctions.

Crossings.

Improper crossing of highway and
railroad, §23-12-306.**Injuries.**

Employees.

Hospital fees.

Hospital facilities in state to be
provided, §23-12-508.

Hours of work.

Freight trains.

Contributory negligence no
defense to injury actions
when act violated,
§23-12-509.Liability for injury or death of
employee, §§23-12-501 to
23-12-507.

Liability, §23-12-902.

Contributory negligence, §23-12-907.

Restrictions on, §23-12-904.

Legislative intent, §23-12-901.

Who may sue for personal injuries,
§23-12-903.

Livestock.

Killing or injuring, §§23-12-908 to
23-12-912. See within this
heading, "Livestock."**Inspections.**

Crossings.

State highway commission.

Proposed road or street crossing,
§23-12-304.Transportation commission,
§23-12-102.**RAILROADS —Cont'd****Insurance.**

Casualty insurance.

Railroad accidents not to be
considered in automobile
insurance, §23-89-302.

Employees.

Liability for injury or death of
employee.Contracts of indemnity insurance
no defense, §23-12-507.Special passenger excursion trains,
§23-10-213.**Interstate commerce.**

Discrimination.

Provisions not to apply to interstate
traffic, §23-4-703.**Investigations.**

Crossings.

Regulation.

State highway commission,
§§23-12-1004, 23-12-1007.**Judges.**

Passes.

Permitted to accept and use passes,
§§23-4-804, 23-4-805.**Jurisdiction.**

Crossings.

State highway commission.

Construction and location,
§23-12-304.

Livestock.

Killing or injuring.

Actions for damages, §23-12-909.

Land grants in aid of railroads.

Acceptance.

Time for.

Forfeiture of land upon failure to
accept, §23-11-502.Report of failure to accept,
§23-11-504.

Application for.

Forfeiture upon failure to apply,
§23-11-502.

Authorized, §23-11-501.

Designation of donee, §23-11-501.

Forfeiture of lands.

Failure to apply for and accept
conveyance, §23-11-502.

Report, §23-11-504.

Reversion of forfeited lands to state,
§23-11-503.

Municipal corporations.

Rights of way.

Sale of abandoned rights of way to
municipality, §23-12-205.

Reversion of land to donor, §23-11-501.

RAILROADS —Cont'd**Land grants in aid of railroads**

—Cont'd

Rights of way.

Abandoned rights of way.

Offer to sell to municipality,
§23-12-205.

Taxation.

List of lands conveyed.

State land commissioner to send
to county assessor for
taxation, §23-11-505.**Leases.**

Railroad enjoining state.

Authorized, §23-11-303.

Liability.

Damages.

Property damage, §23-12-902.

Contributory negligence,
§23-12-907.

Restrictions on, §23-12-904.

Fires, §23-12-913.

Death.

Contributory negligence no complete
defense, §23-12-904.

Fires, §23-12-913.

Freight.

Contracts abridging liability of
railroad void, §23-10-408.Rules abridging liability of railroads
void, §23-10-408.

Injuries, §23-12-902.

Contributory negligence, §23-12-907.

Restrictions on, §23-12-904.

Legislative intent, §23-12-901.

Who may sue for personal injuries,
§23-12-903.

Livestock.

Killing or injuring.

Generally, §§23-12-908 to
23-12-912. See within this
heading, "Livestock."

Lookout.

Duty of trainmen to keep,
§23-12-907.Special passenger excursion trains,
§23-10-213.**Lieutenant governor.**

Passes.

Permitted to accept and use pass,
§23-4-804.**Lights.**Headlights, §23-12-402. See within
this heading, "Headlights."

Switches.

Colors, §23-12-408.

Requirements, §23-12-408.

RAILROADS —Cont'd**Lights —Cont'd**

Switches —Cont'd

Violations of provisions.

Penalty, §23-12-408.

Limitation of actions.

Discrimination.

Actions for damages, §23-4-705.

Action to recover penalty,
§23-10-103.

Freight.

Damages for violations of act,
§23-10-431.**Livestock.**

Killing or injuring.

Actions.

Jurisdiction, §23-12-909.

Parties who may sue for stock
killed, §23-12-909.

Arbitration of damages, §23-12-912.

Refusal to abide by award,
§23-12-912.Double damages upon
nonpayment, §23-12-912.

Burden of proof, §23-12-910.

Claim agents to settle claims for
killed stock, §23-12-911.

Damages.

Arbitration of damages,
§23-12-912.

Execution for.

Levy and sale of railroad
property under execution,
§23-12-906.

Notice to be posted.

Double damages recoverable on
failure to post, §23-12-908.Who may sue for damages,
§23-12-909.

Misdemeanors.

Violations of provisions,
§23-12-911.Mutilating or disposing of stock
killed without notice.

Penalty, §23-12-806.

Notice, §23-12-908.

Double damages on failure to post
notice, §23-12-908.

Penalties.

Violations of provisions,
§23-12-911.Service of process upon agent of
railroad company, §23-12-905.

Penalties.

Shipments of livestock or poultry.

Shipper's pass.

Noncompliance with
requirement, §23-10-441.

RAILROADS —Cont'd**Livestock —Cont'd**

- Shipments of livestock or poultry.
 - Double-decked cars for sheep and hog shipments.
- Charges.
 - Same charge as carload, §23-10-442.
- Furnishing, §23-10-442.
 - Charge of half of carload on failure to furnish, §23-10-442.
- Preference to be given livestock, §23-10-411.
- Shipper's pass, §23-10-441.
 - Penalty for noncompliance, §23-10-441.

Locomotives.

- Defined, §23-12-405.
- Drinking water and cups, §23-12-405.
- First aid kits.
 - Required, §23-12-405.
- Misdemeanors.
 - Violation of equipment requirements, §23-12-405.
- Penalties.
 - Violation of equipment requirements, §23-12-405.

Lookout law, §23-12-907.**Mandamus.**

- Discrimination.
- Enforcement of act, §23-4-719.

Misdemeanors.

- Caboose cars.
 - Violation of equipment requirements, §23-12-405.
- Violations of requirements, §23-12-403.

Depots.

- Junctions.
 - Passenger trains.
 - Violations of provisions, §§23-10-205, 23-10-206.

Discharging firearms or throwing objects at cars, §23-12-804.**Drunkenness.**

- Engineer or conductor drunk, §23-12-807.

Employees.

- Drinking water.
 - "Maintenance of way" employees.
 - Failure to furnish drinking water to, §23-12-511.

Engines.

- Violations of construction requirements, §23-12-401.

RAILROADS —Cont'd**Misdemeanors —Cont'd**

- Freight.
 - Livestock or poultry.
 - Shipper's pass.
 - Noncompliance with requirement, §23-10-441.
- Improper language in waiting rooms or cars, §23-12-801.
- Livestock.
 - Killing or injuring.
 - Mutilating or disposing of stock killed without notice, §23-12-806.
 - Violations of provisions, §23-12-911.

Locomotives.

- Violation of equipment requirements, §23-12-405.

Passengers.

- Annoyance or fraud.
 - Perpetration, §23-10-207.
- Solicitation on train or in depot, §23-10-208.
- Waiting rooms.
 - Violations of provisions as to, §23-10-201.

Passes.

- Government officials.
 - Accepting pass, §23-4-803.

Rates and charges.

- False report as to employee receiving or failing to receive money, §23-4-636.

Repairs.

- Failure to obey direction to repair, §23-12-103.

Safety.

- Employees.
 - Shelter where railroad equipment constructed or repaired.
 - Failure to construct proper shelter, §23-12-513.

Trespassers boarding trains, §23-12-802.**Willful interference with railroad, §23-12-805.****Monopolies.**

- Control of parallel or competing line.
 - Contracts for acquisition void, §23-11-311.
 - Prohibited, §23-11-311.

Municipal corporations.

- Free carriage for municipalities.
 - Authorized, §23-4-807.
- Land grants in aid of railroads.
 - Rights of way.
 - Sale of abandoned rights of way to municipality, §23-12-205.

RAILROADS —Cont'd**Municipal corporations —Cont'd**

Rights of way.

Abandoned rights of way.

Sale to municipality, §23-12-205.

Negligence.

Contributory negligence.

Liability for injury or death of employee.

Contributory negligence no defense, §23-12-505.

Employees.

Hours of work.

Freight trains.

Contributory negligence no defense to injury actions when act violated, §23-12-509.

Liability for injury or death of employee.

Generally, §§23-12-501 to 23-12-507.

Fires.

Liability for fires, §23-12-913.

Freight.

Furnishing cars for freight.

Gross negligence in not furnishing cars.

Penalty, §23-10-436.

Newspapers.

Passes.

Issuance in exchange for advertising space, §23-4-806.

Notice.

Crossings.

Orders of state highway commission, §23-12-304.

Dangerous conditions.

Notice to public, §23-12-103.

Drainage of roadbed.

Notice of violation, §23-12-204.

Fences.

Notice to remove fence for public convenience, §23-12-308.

Livestock.

Killing or injuring.

Notice to be posted, §23-12-908.

Stock guards.

Notice to construct, §23-12-412.

Obscenity.

Improper language in waiting room or cars.

Penalty, §23-12-801.

Orders.

Crossings.

State highway commission, §23-12-304.

RAILROADS —Cont'd**Passengers.**

Accommodations, §23-12-601.

Annoyance.

Protection of passengers from, §23-10-207.

Baggage.

Amount of baggage allowed, §23-10-209.

Excess weight.

Charge for, §23-10-209.

Noncompliance by carrier.

Damages, §23-10-209.

Penalty, §23-10-209.

Bicycles.

Transportation as baggage, §23-10-210.

Damages.

Amount of baggage allowed.

Noncompliance by carrier, §23-10-209.

Injury to baggage, §23-10-211.

Defined, §23-10-209.

Excess weight.

Charge for, §23-10-209.

Injuring baggage.

Liability of carrier, §23-10-211.

Prohibited, §23-10-211.

Liability of carrier.

Period carrier liable, §23-10-212.

Penalties.

Amount of baggage allowed.

Noncompliance by carrier, §23-10-209.

Period during which carrier liable, §23-10-212.

Stage planks or trucks used to handle baggage.

Required, §23-10-211.

Bulletin boards showing time of arrival and departure of trains.

Required, §23-10-203.

Penalty for violations, §23-10-203.

Discrimination.

Prohibited acts, §23-4-710.

Drinking water.

Required on passenger train, §23-10-202.

Waiting rooms, §23-10-201.

Ejection.

Failure to pay fare, §23-4-618.

Fraud.

Protection of passengers from, §23-10-207.

Intersection of railroads.

Transfer of passengers, §23-12-602.

Misdemeanors.

Annoyance or fraud.

Perpetration, §23-10-207.

RAILROADS —Cont'd**Passengers —Cont'd****Misdemeanors —Cont'd**

Solicitation on train or in depot,
§23-10-208.

Waiting rooms.

Violations of provisions as to,
§23-10-201.

Penalties.

Annoyance or fraud.

Perpetration, §23-10-207.

Baggage.

Amount of baggage allowed.

Noncompliance with carrier,
§23-10-209.

Bulletin boards showing time of
arrival and departure of trains.

Violation of requirement,
§23-10-203.

Solicitation on train or in depot,
§23-10-208.

Waiting rooms.

Violations of provisions,
§23-10-201.

Rates and charges.

Ejection upon failure to pay fare,
§23-4-618.

Stopping at other than regular
station.

Additional charge, §23-4-616.

Transportation of passengers
without tickets at regular rates,
§23-4-617.

Refusal to transport passenger at
appointed time.

Damages, §23-12-601.

Solicitation on trains or in depots.

Enforcement of provisions by
trainmen, §23-10-208.

Penalties, §23-10-208.

Carrier permitting solicitation,
§23-10-208.

Permitting.

Carrier not to permit, §23-10-208.

Prohibited, §23-10-208.

Special passenger excursion trains.

Liability, §23-10-213.

Waiting rooms.

Drinking water, §23-10-201.

Improper language in waiting
rooms.

Penalty, §23-12-801.

Requirements as to, §23-10-201.

Violations of provisions.

Penalties, §23-10-201.

Water closets.

Passenger depots, §23-10-201.

RAILROADS —Cont'd**Passes.****Advertising.**

Issuance of passes in exchange for
advertising space, §23-4-806.

Attorney general.

Permitted to accept and use pass,
§23-4-804.

General assembly.

Members permitted to accept and
use passes, §23-4-804.

Government officials.**Accepting passes.**

Officials permitted to accept and
use passes, §§23-4-804,
23-4-805.

Penalty, §23-4-803.

Definitions, §23-4-801.**Granting free passes to.**

Penalty, §23-4-802.

Prohibited, §23-4-802.

Prosecuting attorney.

Fee for collection of penalty,
§23-4-802.

Penalties.

Accepting passes, §23-4-803.

Granting passes, §23-4-802.

Governor.

Permitted to accept and use pass,
§23-4-804.

Judges.

Permitted to accept and use passes,
§§23-4-804, 23-4-805.

Lieutenant governor.

Permitted to accept and use pass,
§23-4-804.

Misdemeanors.**Government officials.**

Accepting pass, §23-4-803.

Officer of state.

Permitted to accept and use pass,
§23-4-804.

Penalties.**Government officials.**

Accepting pass, §23-4-803.

Granting of free passes to,
§23-4-802.

Secretary of state.

Permitted to accept and use pass,
§23-4-804.

Sheriffs.

Permitted to accept and use passes,
§§23-4-804, 23-4-805.

Treasurer of state.

Permitted to accept and use pass,
§23-4-804.

RAILROADS —Cont'd**Penalties.**

Abandonment of operations by railroad corporation without authority.

Stockholders to offer stock for sale.

Violations of provisions,
§23-12-612.

Bell or whistle to be sounded at crossing.

Violations of provisions, §23-12-410.

Caboose cars.

Violation of equipment requirements, §23-12-405.

Violations of requirements,
§23-12-403.

Civil penalties.

Actions to recover, §23-10-103.

General provisions, §23-10-103.

Crossings.

Bell or whistle to be sounded at crossing.

Violations of provisions,
§23-12-410.

Depots.

Failure or refusal to build depot and stop passenger trains at,
§23-12-604.

Junctions.

Passenger trains.

Crier, failure or neglect to provide, §23-10-205.

Discharging firearms or throwing objects at cars, §23-12-804.

Discrimination.

Actions to recover, §23-4-706.

Books and papers of railroad companies.

Refusal to permit examination by state highway and transportation department,
§23-4-718.

Disposition of revenues, §23-4-720.

Drainage of roadbed.

Violation of provision, §23-12-204.

Drunkenness.

Engineer or conductor drunk,
§23-12-807.

Employees.

Drinking water.

"Maintenance of way" employees.

Failure to furnish to,
§23-12-511.

Hospital fees.

Failure of railroad to provide hospital facilities in state,
§23-12-508.

RAILROADS —Cont'd**Penalties —Cont'd**

Employees —Cont'd

Hours of work.

Freight trains.

Violations of provisions,
§23-12-509.

Telephone and telegraph operators for railroads.

Violations of provisions,
§23-12-510.

Safety, §§23-12-512, 23-12-513.

Engines.

Violations of construction requirements, §23-12-401.

Establishment, discontinuance, modification, etc., of service.

Findings on.

Failure to comply with,
§23-12-609.

Fences.

Removal of fences for public convenience.

Refusal to remove, §23-12-308.

Freight.

Delivery of freight.

Delay, §23-10-419.

Express companies.

Liability for loss.

Failure to repay damages,
§23-10-305.

Extra pay for furnishing car to shipper.

Employee demanding or receiving,
§23-10-429.

Failure to furnish cars for freight,
§23-10-413.

Furnishing cars for freight.

Gross negligence in not furnishing cars, §23-10-436.

Livestock or poultry.

Shipper's pass.

Noncompliance with requirement, §23-10-441.

Notice to consignee of arrival of freight.

Failure to give notice, §23-10-420.

Recovery of forfeitures and charges,
§23-10-430.

Recovery of penalties, §23-10-406.

Refusal to establish offices or deliver packages, §23-10-302.

Transportation of freight.

Violations of requirements,
§23-10-418.

Violations of act or rules of agency,
§23-10-406.

RAILROADS —Cont'd**Penalties —Cont'd**

Freight —Cont'd

Weighing.

Noncompliance with provisions,
§§23-10-444, 23-10-445.

Headlights.

Violation of candlepower
requirements, §23-12-402.

Improper language in waiting rooms
or cars, §23-12-801.

Livestock.

Killing or injuring.

Mutilating or disposing of stock
killed without notice,
§23-12-806.

Violations of provisions,
§23-12-911.

Shipments of livestock or poultry.

Shipper's pass.

Noncompliance with
requirement, §23-10-441.

Locomotives.

Violation of equipment
requirements, §23-12-405.

Monopolies.

Control of parallel or competing line.

Violations of provisions,
§23-11-311.

Passengers.

Annoyance or fraud.

Perpetration, §23-10-207.

Baggage.

Amount of baggage allowed.
Noncompliance with carrier,
§23-10-209.

Bulletin boards showing time of
arrival and departure of trains.

Violation of requirement,
§23-10-203.

Solicitation on train or in depot,
§23-10-208.

Waiting rooms.

Violations of provisions,
§23-10-201.

Passes.

Government officials.

Accepting pass, §23-4-803.
Granting of free passes to,
§23-4-802.

Rates and charges.

Coal cars.

Switching charges.
Violations by railroad
companies, §23-4-612.

False report as to employee
receiving or failing to receive
money, §23-4-636.

RAILROADS —Cont'd**Penalties —Cont'd**

Rates and charges —Cont'd

Overcharging.

Freight rates on crushed stone,
sand and gravel, §23-4-614.

Freight rates on short lines,
§23-4-611.

Schedule of rates.

Failure to show, §23-4-604.

Violations of tariffs or rules,
§23-4-602.

Recovery of penalties, §23-12-805.

Repairs.

Cars.

Repairs to be done in state.
Violations of provisions,
§23-12-407.

Failure to obey direction to repair,
§23-12-103.

Reports.

Annual reports of railroads and
express companies.

Failure to report, §23-11-103.

Rights of way.

Failure to maintain free from
obstructions, §23-12-201.

Safety.

Employees.

Blocks in frogs and guardrails.
Violation of requirement,
§23-12-512.

Shelter where railroad equipment
constructed or repaired.

Failure to construct proper
shelter, §23-12-513.

Stock guards.

Failure to maintain stock guard,
§23-12-412.

Stopping trains within town limits
upon petition.

Violations of provisions, §23-12-606.

Switches.

Lights on switches.

Violations of provisions,
§23-12-408.

Track motor cars.

Violation of equipment requirement,
§23-12-404.

Tracks.

Using track as highway, §23-12-803.

Trespassers boarding trains,
§23-12-802.

Tunnels.

Automatic block signal system at
tunnel.

Violations of provisions,
§23-12-409.

RAILROADS —Cont'd**Penalties —Cont'd****Tunnels —Cont'd**

- Signboard one mile from tunnel.
- Violations of provisions,
§23-12-409.

Perjury.

- Freight.
- Damages.
- False affidavit as to damage,
§23-10-304.

Petitions.

- Stopping trains within town limits upon petition.
- Facilities to be maintained,
§23-12-606.
- Generally, §23-12-606.
- Mandamus to compel compliance,
§23-12-606.
- Violations of provisions.
- Damages, §23-12-606.
- Penalty, §23-12-606.

Police, §§23-12-701 to 23-12-708.

See RAILROAD POLICE.

Presumptions.

- Employees.
- Liability for injury or death of employee.
- Defective equipment.
- Presumption of knowledge,
§23-12-504.

Profanity.

- Improper language in waiting rooms or cars.
- Penalty, §23-12-801.

Prosecuting attorneys.

- Freight.
- Recovery of penalties.
- Fee of prosecuting attorney,
§23-10-406.

Headlights.

- Candle power requirements.
- Enforcement, §23-12-402.
- Recovery of penalties under act,
§23-12-805.

Public drunkenness.

- Arrests by railroad conductors,
§23-12-708.

Purchase.

- Railroad enjoining state.
- Authorized, §23-11-303.

Rates and charges.

- Bills of lading.
- Charges specified in bill of lading controlling, §23-4-613.

RAILROADS —Cont'd**Rates and charges —Cont'd****Bills of lading —Cont'd**

- Delivery of goods on payment of charges shown in bill of lading,
§23-4-613.

- Liability for refusal to deliver,
§23-4-613.

- Changes in rates, §§23-4-620 to 23-4-635.

See CARRIERS.

Coal cars.

- Switching charges, §23-4-612.
- Charge allowed when coal car is furnished, §23-4-612.
- Penalty for violations, §23-4-612.

Connecting lines.

- Division of charges, §23-4-607.
- Penalties for violation of provisions,
§23-4-608.

Single management.

- Connecting lines under one management considered one railroad, §23-4-609.

- Construction and interpretation,
§23-4-601.

Continuous lines.

- Penalties for violation of provisions,
§23-4-608.

State highway and transportation department.

- Prescribing rates and fares,
§23-4-606.

- Through rates and fares, §23-4-606.

Discrimination, §23-4-710.**Complaints.**

- Hearings, §23-4-715.
- Investigation, §23-4-714.

Different lines operated by same company.

- Applicability of provisions,
§23-10-102.

Passes.

- Free transportation for certain persons not prohibited,
§23-10-107.

Prohibited, §23-10-105.

- Regulation of rates and charges by state highway and transportation department,
§23-4-708.

Schedules of rates.

- Posting of printed schedules,
§23-4-707.

State highway and transportation department.

- Books and papers of companies.
- Access to, §23-4-718.

RAILROADS —Cont'd**Rates and charges —Cont'd**

False report as to employee receiving or failing to receive money.

Penalty, §23-4-636.

Freight.

Crushed stone, sand and gravel,
§23-4-614.

Overcharge.

Penalty, §23-4-614.

Short lines.

Maximum freight charge,
§23-4-611.

Overcharge.

Penalty, §23-4-611.

Reduction of rates, §23-4-611.

Through freight rates.

Investigation and correction by
department, §23-4-610.

General assembly.

Reduction of railroad rates,
§23-4-619.

Gravel.

Freight rates, §23-4-614.

Just and reasonable rates.

Required, §23-4-603.

Liability as to rates approved by
agency, §23-4-716.

Misdemeanors.

False report as to employee
receiving or failing to receive
money, §23-4-636.

Overcharging.

Freight rates on crushed stone, sand
and gravel.

Penalty, §23-4-614.

Prohibited, §23-4-605.

Short lines.

Freight rates on.

Penalty, §23-4-611.

Passengers.

Ejection upon failure to pay fare,
§23-4-618.

Stopping at other than regular
station.

Additional charge, §23-4-616.

Transportation of passengers
without tickets at regular rates,
§23-4-617.

Penalties.**Coal cars.****Switching charges.**

Violations by railroad
companies, §23-4-612.

False report as to employee
receiving or failing to receive
money, §23-4-636.

RAILROADS —Cont'd**Rates and charges —Cont'd****Penalties —Cont'd****Overcharging.**

Freight rates on crushed stone,
sand and gravel, §23-4-614.

Freight rates on short lines,
§23-4-611.

Schedule of rates.

Failure to show, §23-4-604.

Violations of tariffs or rules,
§23-4-602.

Rate making for carriers generally.

See CARRIERS.

Rate-making procedure, §23-4-709.

Reasonable and just rates required,
§23-4-603.

Reduction of railroad rates.

Legislative authority, §23-4-619.

Reduced rate tickets allowed,
§23-4-713.

Sand.

Freight rates, §23-4-614.

Schedule of rates.**Open to inspection.**

Penalty for failure to show
schedule, §23-4-604.

Short lines.

Freight charges, §23-4-611.

Sleeping cars.

Adoption or adjustment of tariffs by
state highway and
transportation, §23-4-615.

State highway and transportation
department.

Connecting lines under one
management.

Power to fix rates, §23-4-609.

Continuous lines.

Rates and fares prescribed by
department, §23-4-606.

Sleeping car tariffs.

Adoption or adjustment by
department, §23-4-615.

Through freight rates.

Investigation and correction by
department, §23-4-610.

Violations of tariffs or rules.

Penalty, §23-4-602.

Through freight rates.

Investigation and correction by state
highway and transportation
department, §23-4-610.

Receivers.**Corporations.**

Abandonment of operations without
authority, §23-12-613.

RAILROADS —Cont'd**Repairs.****Cars.****Caboose cars.**

Applicability of construction requirements to existing caboose cars undergoing general repairs, §23-12-403.

Repairs to be done in state, §23-12-407.

Penalty for violations, §23-12-407.

Sending cars out of state to be repaired prohibited, §23-12-407.

Inspection of railroads.

State highway and transportation department, §23-12-102.

Inspection of railroads by transportation safety agency.

Directions to repair, §23-12-103.

Penalties.**Cars.**

Repairs to be done in state.

Violations of provisions, §23-12-407.

Failure to obey directions to repair, §23-12-103.

Provisions cumulative, §23-12-101.

Reports.

Annual reports, §23-11-103.

Penalties, §23-11-103.

Rights of way.

Abandoned rights of way.

Railroad to offer to sell to municipality, §23-12-205.

Derailment or wreck.

Clearing right of way following, §23-12-203.

Maintenance free from obstructions, §23-12-201.

Penalty for failure to comply, §23-12-201.

Weeds.

Permitting certain weeds to seed on right of way, §23-12-202.

Rules and regulations.**Crossings.****Regulation.**

State highway commission, §§23-12-1004, 23-12-1007.

Safety.**Employees.**

Blocks in frogs and guardrails.

Required, §23-12-512.

Penalty for violation of provisions, §23-12-512.

RAILROADS —Cont'd**Safety —Cont'd****Employees —Cont'd**

Liability for injury or death of employee.

Generally, §§23-12-501 to 23-12-507.

Shelter where railroad equipment constructed or repaired.

Penalty for failure to construct proper shelter, §23-12-513.

Required, §23-12-513.

Misdemeanors.**Employees.**

Shelter where railroad equipment constructed or repaired.

Failure to construct proper shelter, §23-12-513.

Penalties.**Employees.**

Blocks in frogs and guardrails.

Violation of requirement, §23-12-512.

Shelter where railroad equipment constructed or repaired.

Failure to construct proper shelter, §23-12-513.

Sale or lease of road or property.

Authorized, §23-11-301.

Corporations.

Formation to purchase or lease railroads, §23-11-315.

Stock and stockholders.

Consent of stockholders required, §23-11-309.

Stock issued in payment.

Full paid shares, §23-11-315.

Foreign corporations.

Lessor and lessee of railroad subject to laws, §23-11-403.

Purchase or lease of state roads by, §23-11-402.

Sale or lease to connecting foreign railroad, §23-11-302.

Forfeiture of lease when not in conformity with law.

Attorney general.

Enforcement of provisions, §23-11-314.

Effect.

Return to lessor, §23-11-314.

Generally, §23-11-314.

Return to lessor, §23-11-314.

Liability of purchasing company for debts, §23-11-313.

Time limit for claims, §23-11-313.

RAILROADS —Cont'd**Sale or lease of road or property —Cont'd**

- Repair of leased property.
- Forfeiture of lease for failure to repair.
- Attorney general.
- Enforcement of provisions, §23-11-314.
- Effect.
- Return to lessor, §23-11-314.
- Generally, §23-11-314.

Schedules.

- Refusal to transport passenger or property at appointed time.
- Damages, §23-12-601.
- Regular schedules.
- Required, §23-12-601.

Secretary of state.

- Passes.
- Permitted to accept and use pass, §23-4-804.

Service of process.

- Livestock.
- Killing or injuring.
- Service upon agent of railroad company, §23-12-905.

Sheriffs.

- Passes.
- Permitted to accept and use pass, §§23-4-804, 23-4-805.

Sleeping cars.

- Rates and charges.
- State highway and transportation department.
- Adoption or adjustment of tariffs, §23-4-615.

Solicitation on trains or in depots, §23-10-208.**Special passenger excursion trains.**

- Liability, §23-10-213.

State highway and transportation department.

- Charters of railroad corporations.
- Extension, §23-11-223.
- Discrimination.
- Books and papers of railroad companies.
- Access to, §23-4-718.
- Refusal to permit examination by department.
- Penalties, §23-4-718.
- Complaints.
- Duty to investigate, §23-4-714.
- Information to be furnished, §23-4-717.
- Rates and charges.
- Regulation, §23-4-708.

RAILROADS —Cont'd**State highway and transportation department —Cont'd**

- Enforcement of laws relating to railroads or express companies on complaint, §23-11-101.
- Frequency of trains and street cars.
- Powers, §23-12-104.
- Hearings.
- Application for incorporation, §23-11-205.
- Inspection of railroads, §23-12-102.
- Rates and charges.
- Connecting lines under one management.
- Power to fix rates, §23-4-609.
- Rate-making procedure, §23-4-709.
- Sleeping car tariffs.
- Adoption or adjustment by department, §23-4-615.
- Through freight rates.
- Investigation and correction by department, §23-4-610.
- Violations of tariffs or rules.
- Penalty, §23-4-602.
- Reports as to information regarding railroad companies, §23-11-104.
- State highway commission.**
- Crossings.
- Complaint of inadequate action or unreasonable refusal.
- Action on complaint, §23-12-1005.
- Complaints of unlawful delay.
- Action on complaints, §23-12-1008.
- Inspection of proposed road or street crossings, §23-12-304.
- Investigations, §§23-12-1004, 23-12-1007.
- Jurisdiction, §§23-12-1002, 23-12-1003.
- Operation and movement of trains, §23-12-1006.
- Jurisdiction over location and construction of crossings, §23-12-304.
- Rules and regulations, §§23-12-1004, 23-12-1007.
- Supervision, §23-12-301.
- Stock and stockholders.**
- Aiding other roads by purchasing stock when intending to form connection, §23-11-304.
- Stock guards.**
- Damages.
- Failure to maintain stock guard.
- Liability, §23-12-412.
- Failure to maintain.
- Penalty, §23-12-412.
- Notice to construct, §23-12-412.

RAILROADS —Cont'd**Stock guards —Cont'd**

Penalties.

Failure to maintain stock guard,
§23-12-412.

Required when railroad passes
through enclosure, §23-12-412.

Subrogation.

Freight.

Damages.

Liability of initial carrier,
§23-10-303.

Switch connections.

Lights.

Colors, §23-12-408.

Requirements, §23-12-408.

Violations of provisions.

Penalty, §23-12-408.

Railroad companies to permit,
§23-12-302.

Taxation.

Land grants in aid of railroads,
§23-11-505.

Telephone and telegraph companies.

Right of railroads to operate
telegraphs and telephones,
§23-17-102.

Throwing objects at cars.

Penalty, §23-12-804.

Track motor cars.

Equipment required, §23-12-404.

Penalty for violation, §23-12-404.

Penalties.

Violation of equipment requirement,
§23-12-404.

Tracks.

Using track as highway.

Penalty, §23-12-803.

Treasurer of state.

Passes.

Permitted to accept and use pass,
§23-4-804.

Trespass.

Boarding trains, §23-12-802.

Trusts and trustees.

Corporations.

Voting of stock by trustee,
§23-11-212.

Tunnels.

Penalties.

Automatic block signal system at
tunnel.

Violations of provisions,
§23-12-409.

Signboard one mile from tunnel.

Violations of provisions,
§23-12-409.

RAILROADS —Cont'd**Water closets.**

Depots, §23-10-201.

Water power companies.

Right of way for railroad in connection
with construction of dam.

Acquisition, §23-18-407.

Weapons.

Discharging firearms at cars.

Penalty, §23-12-804.

Weeds.

Permitting certain weeds to seed on
right of way.

Damages for maturing of weeds,
§23-12-202.

Prohibited, §23-12-202.

Whistles.

Crossings.

Bell or whistle to be sounded at
crossing, §23-12-410.

Willful interference.

Treble damages, §23-12-805.

Witnesses.

Discrimination.

Officers compelled to attend and
testify, §23-10-110.

Self-incrimination no bar,
§23-10-110.

RATES AND CHARGES.**Aviation.**

Air commerce.

See AVIATION.

Carriers.

Rate making for carriers generally.

See CARRIERS.

Electric cooperative corporations,

§§23-4-901 to 23-4-909.

See ELECTRIC COOPERATIVE
CORPORATIONS.

Health maintenance organizations.

Evidence of coverage and charges for
health care services, §23-76-112.

Insurance, §§23-67-201 to 23-67-222.

See INSURANCE.

Motor carriers.

See MOTOR CARRIERS.

Municipal corporations.

Public utilities.

Cities and towns divested of rate
making power, §23-4-201.

Pipelines.

Natural gas utilities.

Determination, §23-15-104.

Public utilities.

See PUBLIC UTILITIES.

Railroads.

See RAILROADS.

REAL ESTATE BROKERS AND SALESMEN.**Banks.**

Prohibition, §23-47-104.

REAL PROPERTY.**Building and loan associations.**

Investments in real property,
§23-38-213.

Valuation of real property owned as
assets, §23-38-214.

Insurance.

Investments.

Chattel mortgages, §23-63-827.

Limitations, §23-63-828.

Mortgages, §23-63-826.

Time limit for disposal of real estate,
§23-63-829.

Failure to dispose of real estate,
§23-63-831.

Mortgages and deeds of trust.

General provisions.

See MORTGAGES AND DEEDS OF
TRUST.

Railroads.

Land grants in aid of railroads,
§§23-11-501 to 23-11-505.

See RAILROADS.

Sale or lease of road or property.

See RAILROADS.

Rural telecommunications cooperatives.

Powers, §23-17-205.

Rural telephone cooperatives.

Mortgage, sale or disposition,
§23-17-231.

Trust companies.

Investments.

Limitations, §23-51-122.

RECEIPTS.**Motor carrier act of 1955.**

Documents required to be in
possession of exempt motor
carrier, §23-13-265.

Motor carriers, §23-13-252.**RECEIVERS.****Banks.**

Appointment, §23-49-106.

Powers, §23-49-107.

Building and loan associations.

Insolvency and illegal practices,
§23-38-303.

Duties, §23-38-304.

Federal savings and loan insurance
corporation acting as receiver,
§23-37-706.

RECEIVERS —Cont'd**Building and loan associations**

—Cont'd

Insolvency and illegal practices

—Cont'd

Loans from reconstruction finance
corporation.

Authority of receiver to apply for,
§23-38-305.

Hypothecation of assets to secure,
§23-38-305.

Notes executed to evidence loan,
§23-38-305.

Notice of application for loan,
§23-38-306.

Other instruments executed to
procure loan, §23-38-305.

Renewal, §23-38-305.

Continuing care providers.

Bankruptcy or receivership of provider
resulting from financial
difficulties.

Resident's statutory lien on real and
personal property, §23-93-113.

Fraternal benefit societies.

Domestic societies.

Receivership of domestic societies.

Grounds, §23-74-606.

Procedure, §23-74-606.

Insurance.

Holding companies, §23-63-523.

Property and casualty insurance
guaranty.

Duties of receiver, §23-90-116.

Railroads.

Corporations.

Abandonment of operations without
authority, §23-12-613.

Trust companies.

Appointment, §23-49-106.

Powers, §23-49-107.

RECIPROCAL INSURERS.**Actions.**

Name used in suits, §23-70-104.

Aggregate liabilities, §23-70-119.**Annual statement, §23-70-113.****Applicability of provisions,
§23-70-102.****Assessments, §23-70-118.**

Nonassessable policies, §23-70-120.

Time limit, §23-70-118.

Assets.

Impaired reciprocals, §23-70-124.

Subscribers' share in assets,
§23-70-122.

Attorneys at law.

Bonds, surety, §23-70-110.

Action on bond, §23-70-110.

Deposit in lieu of bond, §23-70-110.

RECIPROCAL INSURERS —Cont'd**Attorneys at law** —Cont'd

Power of attorney, §23-70-108.

Bonds, surety.

Attorneys at law, §23-70-110.

Action on bond, §23-70-110.

Deposit in lieu of bond, §23-70-110.

Certificates of authority.

Issuance, §23-70-107.

Contracts.

Modifications, §23-70-109.

Contributions to insurer, §23-70-112.**Conversions, §23-70-123.****Definitions, §23-70-101.****Distribution of savings, §23-70-121.****Financial condition.**

Method of determining, §23-70-114.

Funds.

Surplus funds.

Required, §23-70-105.

Impaired reciprocals, §23-70-124.**Insuring powers of reciprocals, §23-70-103.****Judgments.**

Binding nature, §23-70-111.

Subscribers liability, §23-70-117.

Liabilities.

Aggregate liability, §23-70-119.

Subscribers liability, §23-70-117.

Mergers, §23-70-123.**Names.**

Used in suits, §23-70-104.

Organization, §23-70-106.**Policies.**

Modifications, §23-70-109.

Nonassessable policies, §23-70-120.

Power of attorney, §23-70-108.**Powers.**

Insuring powers of reciprocals, §23-70-103.

Reports.

Annual statement, §23-70-113.

Savings.

Distribution of savings, §23-70-121.

Scope of chapter, §23-70-102.**Service of process.**

Procedure, §23-70-111.

Stock and stockholders.

Subscribers' share in assets, §23-70-122.

Subscribers.

Advisory committee, §23-70-116.

Liability, §23-70-117.

Who may be subscribers, §23-70-115.

Surplus funds.

Required, §23-70-105.

RECIPROCITY.**Employee leasing firms.**

Licenses, §23-92-310.

RECIPROCITY —Cont'd**Insurance.**

Health insurance, §23-85-129.

Insurance producers.

Licensing, §23-64-516.

Reciprocal insurers, §§23-70-101 to 23-70-124.

See INSURANCE.

Securities regulation.

Commissioner.

Cooperation with other regulatory agencies, §23-42-208.

RECORDS.**Amusements, §23-89-516.****Bank department, §23-46-209.**

Confidentiality, §23-46-101.

Retention, §23-46-211.

Banking board.

Confidentiality, §23-46-101.

Banks.

Confidentiality.

Bank department and banking board records, §23-46-101.

Falsification, §§23-50-106, 23-50-107.

Retention, §23-46-511.

Trust powers.

Separate books and records, §23-47-704.

Check-cashers, §23-52-112.**Credit unions.**

Keeping records, §23-35-611.

Fraternal benefit societies.

Certificates of authority, §23-74-301.

Greyhound racing.

Franchise holders, §23-111-511.

Amount of money wagered, §23-111-509.

Racing commission to have access, §23-111-512.

Highways.

State highway and transportation department, §23-2-212.

Open to public, §23-2-316.

Protective order, §23-2-316.

Proceedings, §23-2-418.

Horse racing.

Franchise holders, §23-110-412.

Racing commission to have access to records, §23-110-413.

Insurance.

Agents and brokers.

Keeping of records, §23-64-220.

Brokers.

Surplus lines, §23-65-313.

Burial associations.

Books and records.

Maintenance, §§23-78-117, 23-78-119.

RECORDS —Cont'd**Insurance —Cont'd**

Commissioner.

Certified copies and certificates,
§23-61-107.

Examinations, §23-61-204.

Keeping, §23-61-107.

Deposits, §23-63-905.

Liability of commissioner and state,
§23-63-905.

Domestic stock and mutual insurers.

Keeping of records required,
§23-69-134.

Holding companies.

Confidential treatment, §23-63-517.

Minimum basic benefit policies.

Requirements for insurers,
§23-98-111.

Rates and charges.

Filing, §23-67-218.

Signatures.

Electronic, electronic
facsimile-transmitted or
computer-readable signatures,
§23-61-107.

Small employer health insurance.

Maintenance of records, §23-86-207.

Surplus lines.

Brokers to keep records, §23-65-313.

Production on order, §23-65-104.

Mortgage bankers, brokers and servicers, §23-39-509.

Public inspection, §23-39-512.

Public service commission.

Appeals.

Orders of commission, §23-2-423.

Cost of operation and maintenance,
§23-2-108.

Open to public, §23-2-316.

Protective orders, §23-2-316.

Proceedings before commission,
§23-2-418.

Public utilities.

Consumer utilities rate advocacy
division, §23-4-307.

Savings and loan associations.

Hearings and decisions, §23-37-204.

Securities regulations.

Agents, §23-42-306.

Broker-dealers, §23-42-306.

Commissioner, §23-42-206.

Inspection of record, §23-42-207.

Investment advisers, §23-42-306.

Issuers, §23-42-306.

Trust companies.

Confidentiality, §23-51-187.

Distinct fiduciary records, §23-51-147.

RECORDS —Cont'd**Viatical settlements.**

Records retention, §23-81-607.

REGISTRATION.**Insurance.**

Risk retention and purchasing groups.

See RISK RETENTION AND
PURCHASING GROUPS.

Motor carriers.

Fee, §23-13-235.

Securities regulations.

Agents.

See SECURITIES REGULATIONS.

Broker-dealers.

See SECURITIES REGULATIONS.

General provisions.

See SECURITIES REGULATIONS.

Investment advisers.

See SECURITIES REGULATIONS.

Registration statements.

See SECURITIES REGULATIONS.

REHABILITATION.**Insurance.**

See INSURANCE.

REINSURANCE.

**General provisions, §§23-62-401 to
23-62-413.**

See INSURANCE.

RELEASE.**Savings and loan associations.**

Validity of release or acquittance by
officers of corporation or
association, §23-37-510.

REMEDIES.**Injunctions.**

General provisions.

See INJUNCTIONS.

RENEWABLE ENERGY

**DEVELOPMENT, §§23-18-601 to
23-18-604.**

REPLEVIN.**Bonds, surety.**

Exemption for banks, §23-48-106.

Financial institutions.

Surety bond exemption, §23-32-305.

REPORTS.**Attorneys at law.**

Legal insurance, §§23-91-215,
23-91-227.

Exempt persons, §23-91-206.

Automobile clubs or associations.

Annual report, §23-77-109.

Aviation.

Air commerce.

Carriers, §23-14-125.

REPORTS —Cont'd**Bank department.**

- Commissioner's reports, §23-46-210.
- Monthly financial reports, §23-46-209.

Banks.

- Call for reports, §23-46-501.
- Changes in chief executive officer or director, §23-46-512.
- Examinations, §23-46-506.
- Examiners.
 - Falsification of report, §23-50-109.
- Failure to make, §23-46-510.
- False reports by commissioner or examiner, §23-50-108.
- Interstate mergers and branching, §23-48-907.

Building and loan associations.

- Annual reports to bank commissioners.
 - Failure to make.
 - Penalty, §23-38-102.
- Bank commissioner to report to governor.
 - Publication, §23-38-102.
- Publication of false advertisement or report of financial condition.
 - Penalty, §23-38-402.

Captive insurance companies,
§23-63-1607.**Checks.**

- Sale of checks act.
 - Semi-annual reports, §23-41-119.

Credit unions.

- Examination by state credit union supervisor, §23-35-203.
- False reports about credit union.
 - Penalty, §23-35-805.
- Penalty for failure to file, §23-35-204.

Fraternal benefit societies.

- Required reports, §23-74-602.
- Failure to file.
 - Penalties, §23-74-602.

Health insurance.

- Mandated health insurance benefits advisory commission, §23-79-905.

Health maintenance organizations.

- Annual report, §23-76-113.
- Filings and reports as public documents, §23-76-128.
- Information to enrollees, §23-76-114.
- Medical information.
 - Confidentiality, §23-76-129.
- Quarterly reports, §23-76-113.

Highways.

- State highway and transportation department.
 - Annual report to governor, §23-2-315.

REPORTS —Cont'd**Highways —Cont'd**

- State highway and transportation department —Cont'd
 - Railroad companies.
 - Report as to information regarding, §23-11-104.

Hospital and medical service corporations.

- Annual reports, §23-75-114.
- Quarterly reports, §23-75-114.

Insurance.

- Brokers.
 - Surplus lines, §23-65-314.
- Burial associations.
 - Semiannual reports, §23-78-120.
- Captive insurance companies, §23-63-1607.
- Commissioner.
 - Annual report, §23-61-112.
 - Examinations, §23-61-205.
- Companies.
 - Annual statement and other information, §23-63-216.
- Credit life and health insurance.
 - Claims, §23-87-115.
- Delinquency proceedings.
 - Petition and report for assessment, §23-68-130.
- Fraudulent insurance acts, §23-66-505 to 23-66-507.
- Insurance producers.
 - Reports to commissioner, §23-64-517.
- Legal insurance.
 - Annual report, §23-91-215.
 - Exempt persons, §23-91-206.
 - Public documents, §23-91-227.
- Life and health insurance guaranty association.
 - Board of directors.
 - Annual report, §23-96-109.
- Material transactions disclosures, §23-63-1402.
- Minimum basic benefit policies.
 - Requirements for insurers, §23-98-111.
- Property and casualty insurance guaranty.
 - Advisory association, §23-90-109.
- Rates and charges.
 - Filing, §23-67-218.
- Reciprocal insurers.
 - Annual statement, §23-70-113.
- Risk management.
 - Annual reports, §23-61-610.
 - Information reported to manager, §23-61-609.

REPORTS —Cont'd**Insurance —Cont'd**

Surplus lines.

Independently procured coverages,
§23-65-103.

Public service commission.

Annual report to governor, §23-2-315.

Public utilities.

Annual reports, §23-2-308.

Environmental and economic
protection.

Forecasts of loading and resources,
§23-18-529.

Rate applications.

Reports on status of, §23-4-420.

Special reports, §23-2-308.

Railroads.

Annual reports, §23-11-103.

Risk-based capital act.

Generally, §§23-63-1301 to 23-63-1316.

See INSURANCE.

Risk-based capital requirements for health organizations.

Generally, §23-63-1501.

Securities regulations.

Agents, §23-42-306.

Broker-dealers, §23-42-306.

Investment advisers, §23-42-306.

Issuers, §23-42-306.

Trust companies.

Apparent crimes, §23-51-149.

Offices, §23-51-181.

Statements of condition and income,
§23-51-186.

Voluntary liquidation, §23-51-159.

Viatical settlements, §23-81-606.

Fraud prevention and control,
§23-81-612.

REPOSE, STATUTE OF.**Limitation of actions generally.**

See LIMITATION OF ACTIONS.

REPOSSESSION.**Creditor-placed insurance,**

§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

RESIDENTIAL EARTHQUAKE INSURANCE.**Arkansas earthquake authority act,**

§§23-102-101 to 23-102-119.

See EARTHQUAKE AUTHORITY.

RESTITUTION.**Funeral benefits.**

Sale of prepaid benefits, §23-40-106.

Insurance.

Fraudulent insurance acts, §23-66-512.

RESTRAINING ORDERS.**Injunctions.**

General provisions.

See INJUNCTIONS.

RETALIATION.**Insurance companies.**

Retaliation for foreign taxes, fees, etc.,
§23-63-102.

Retaliation for unjustified refusal to
permit business because of similar
name, §23-63-103.

RETARDATION.**General provisions.**

See MENTAL HEALTH.

RIGHT OF ENTRY.**Highways.**

State highway and transportation
department, §§23-2-310, 23-2-311.

Motor carriers.

State highway and transportation
department, §23-13-255.

Public service commission,

§§23-2-310, 23-2-311.

Telephone and telegraph companies.

Construction purposes, §23-17-104.

RIGHTS OF WAY.**Railroads.**

Abandoned rights of way.

Railroad to offer to sell to
municipality, §23-12-205.

Derailment or wreck.

Clearing right of way following,
§23-12-203.

Maintenance free from obstructions,
§23-12-201.

Penalty for failure to comply,
§23-12-201.

Weeds.

Permitting certain weeds to seed on
right of way, §23-12-202.

Telephone and telegraph companies.

Condemnation upon failure to secure,
§23-17-103.

RISK-BASED CAPITAL ACT,

§§23-63-1301 to 23-63-1316.

See INSURANCE.

RISK-BASED CAPITAL**REQUIREMENTS FOR HEALTH****ORGANIZATIONS, §§23-63-1501 to**

23-63-1512.

See INSURANCE.

RISK MANAGEMENT.

See INSURANCE.

RISK OF LOSS.**Risk management defined,**

§23-61-603.

RISK RETENTION AND PURCHASING GROUPS.**Agents.**

Licenses, §§23-94-211, 23-94-213.

Brokers.

Licenses, §§23-94-211, 23-94-213.

Certificates of registration.

Domestic risk retention groups.

Requirements, §23-94-204.

Foreign risk retention groups.

Requirements, §23-94-205.

Purchasing groups, §23-94-208.

Citation of act.

Short title, §23-94-201.

Commissioner.

Administrative and procedural authority regarding, §23-94-212.

Defined, §23-94-203.

Rules and regulations, §23-94-215.

Compulsory associations, §23-94-206.**Definitions, §23-94-203.****Domestic risk retention groups.**

Certificates of registration.

Requirements, §23-94-204.

Plan of operation or feasibility study.

Required, §23-94-204.

Statements.

Filing, §23-94-204.

Examinations.

Foreign risk retention groups,
§23-94-205.

Foreign risk retention groups.

Certificates of registration.

Requirements, §23-94-205.

Examinations, §23-94-205.

Penalties, §23-94-205.

Plan of operation or feasibility study.

Required, §23-94-205.

Service of process.

Designation of commissioner as agent for, §23-94-205.

Statements.

Filing, §23-94-205.

Trade practices act.

Compliance with act, §23-94-205.

Injunctions.

Authority of commissioner, §23-94-212.

United States district court.

Binding effect of orders issued in,
§23-94-214.

Liability insurance.

Restrictions on insurance purchased by purchasing groups, §23-94-209.

Licenses.

Agents, §§23-94-211, 23-94-213.

Brokers, §§23-94-211, 23-94-213.

Notice.

Foreign risk retention groups.

Notice to purchasers, §23-94-205.

RISK RETENTION AND PURCHASING GROUPS —Cont'd**Notice —Cont'd**

Purchasing groups.

Requirements, §23-94-208.

Plan of operation or feasibility study.

Defined, §23-94-203.

Domestic risk retention groups.

Required, §23-94-204.

Foreign risk retention groups.

Required, §23-94-205.

Privilege taxes, §23-94-210.**Purchasing groups.**

Certificates of registration, §23-94-208.

Compulsory associations, §23-94-206.

Exemption from certain laws,
§23-94-207.

Notice.

Requirements, §23-94-208.

Restrictions on insurance purchased by, §23-94-209.

Service of process.

Designation of commissioner as agent, §23-94-208.

Purposes of provisions, §23-94-202.**Registration.**

Certificates of registration.

Domestic risk retention groups.

Requirements, §23-94-204.

Foreign risk retention groups.

Requirements, §23-94-205.

Purchasing groups, §23-94-208.

Rules and regulations.

Commissioner, §23-94-215.

Service of process.

Foreign risk retention groups.

Designation of commissioner as agent for, §23-94-205.

Purchasing groups.

Designation of commissioner as agent, §23-94-208.

Subpoenas.

Authority of commissioner, §23-94-212.

Taxation, §23-94-210.**Title of act.**

Short title, §23-94-201.

Trade practices act.

Foreign risk retention groups.

Compliance with act, §23-94-205.

RISK-SHARING PLANS FOR PROPERTY AND CASUALTY INSURANCE, §§23-95-101 to 23-95-108.

See PROPERTY INSURANCE.

ROADS.**Highways.**

General provisions.

See HIGHWAYS.

ROLLING STOCK.**Railroads.**

General provisions.

See RAILROADS.

RURAL ELECTRIFICATION

CORPORATIONS, §§23-18-301 to 23-18-331.

See **ELECTRIC COOPERATIVE CORPORATIONS**.

RURAL FIRE PROTECTION SERVICE.

See **FIRE PROTECTION DISTRICTS**.

RURAL RISK UNDERWRITING ASSOCIATION.

General provisions, §§23-88-301 to 23-88-309.

See **INSURANCE**.

RURAL TELECOMMUNICATIONS COOPERATIVES.**Acquire.**

Defined, §23-17-202.

Acquisition of another cooperative, §23-17-242.

Actions.

Indemnification of directors, officers, employees or agents, §23-17-238.

Limitation of actions.

Suits against telecommunications companies or cooperatives, §23-17-237.

Power to sue and be sued in corporate name, §23-17-205.

Articles of incorporation.

Amendments, §23-17-211.

Fees for filing articles, §23-17-226.

Contents, §23-17-209.

Enumeration of corporate powers unnecessary, §23-17-209.

Execution, §23-17-210.

Fees, §23-17-226.

Filing, §23-17-210.

Recording, §23-17-210.

Assets.

Dissolution.

Disposition upon dissolution, §23-17-225.

Board.

Actions taken without board meeting, §23-17-239.

Bylaws, §23-17-218.

Powers of board as to bylaws, §23-17-214.

Compensation, §23-17-218.

Composition, §23-17-218.

Conflicts of interest, §23-17-239.

Defined, §23-17-202.

RURAL TELECOMMUNICATIONS COOPERATIVES —Cont'd**Board —Cont'd**

Elections, §23-17-219.

Employees, §23-17-221.

Indemnification of directors, officers, employees or agents, §23-17-238.

Insurance.

Purchasing on behalf of directors, officers, employees or agents, §23-17-238.

Meetings, §23-17-220.

Actions taken without board meeting, §23-17-239.

Waiver of notice, §23-17-223.

Officers, §23-17-221.

Qualifications of directors, §23-17-218.

Quorum of directors, §23-17-220.

Standards of conduct for directors, §23-17-239.

Terms of office, §23-17-219.

Vacancies, §23-17-219.

Bylaws.

Disposition of revenue.

Provisions for, §23-17-228.

Division of territory into two or more districts, §23-17-214.

Powers of board of directors, §23-17-214.

Capital credits, unclaimed, §23-17-240.

Certificate of incorporation.

Evidence.

Effect of issuance, §23-17-212.

Citation of act, §23-17-201.

Conflicts of interest.

Board of directors, §23-17-239.

Connecting companies or cooperatives.

Liabilities, §23-17-235.

Consolidation.

Agreement, §23-17-224.

Articles of consolidation.

Execution, §23-17-224.

Filing fees, §23-17-226.

Authority to consolidate, §23-17-224.

Liabilities of consolidated cooperatives, §23-17-224.

Public service commission.

Approval required, §23-17-224.

Construction standards, §23-17-236.

Debts.

Nonliability of members and shareholders, §23-17-233.

Definitions, §23-17-202.

Dissolution.

Assets.

Disposition, §23-17-225.

Authorized, §23-17-225.

RURAL TELECOMMUNICATIONS COOPERATIVES —Cont'd

Dissolution —Cont'd

- Certificate of dissolution.
- Execution, §23-17-225.
- Filing fees, §23-17-226.

Districts.

- Division of territory into two or more districts, §23-17-214.

Elections.

- Board of directors, §23-17-219.

Eminent domain.

- Powers, §23-17-205.

Evidence.

- Certificate of incorporation, §23-17-212.

Executive committee.

- Election, §23-17-222.
- Responsibilities, §23-17-222.

Exemptions from taxation, §23-17-230.

Federal agencies.

- Defined, §23-17-202.

Fees.

- Enumerated, §23-17-226.
- Membership fees, §23-17-216.

Incorporators.

- Numbers, §23-17-207.
- Organizational meeting, §23-17-213.

Indemnification.

- Directors, officers, employees or agents, §23-17-238.

Insurance.

- Directors, officers, employees or agents.
- Purchasing on behalf of, §23-17-238.

Jurisdiction.

- Public service commission, §23-17-206.

Leases.

- Authority of board, §23-17-231.

Liability.

- Connecting companies or cooperatives, §23-17-235.
- Debts of cooperatives.
- Nonliability of members and shareholders, §23-17-233.

Liens.

- After acquired property, §23-17-232.

Limitation of actions.

- Suits against telecommunications companies or cooperatives, §23-17-237.

Lines and facilities.

- Construction standards, §23-17-236.

Meetings.

- Annual meetings, §23-17-217.
- Directors' meetings, §23-17-220.
- Actions taken without board meeting, §23-17-239.

RURAL TELECOMMUNICATIONS COOPERATIVES —Cont'd

Meetings —Cont'd

- Members, §23-17-217.
- Notice of members meetings, §23-17-217.
- Organizational meeting, §23-17-213.
- Quorum of members, §23-17-217.
- Special meetings, §23-17-217.
- Voting by members, §23-17-217.
- Waiver of notice, §23-17-223.

Members.

- Cancellation of memberships, §23-17-216.
- Debts of cooperatives.
- Nonliability, §23-17-233.
- Defined, §23-17-202.
- Fees, §23-17-216.
- Meetings, §23-17-217.
- Qualifications, §23-17-215.
- Quorum, §23-17-217.
- Voting, §23-17-217.

Mortgages.

- Power to mortgage property, §23-17-231.
- Recordation, §23-17-232.

Municipal corporations.

- Municipalities defined, §23-17-202.

Names.

- Prohibition of use of words
“telecommunications cooperative”
or “telephone cooperative,”
§23-17-208.

Nonprofit operation, §23-17-228.

Notice.

- Meetings.
- Members meetings, §23-17-217.
- Waiver of notice, §23-17-223.
- Organizational meeting, §23-17-213.
- Waiver of notice of meetings, §23-17-223.

Obligations.

- Defined, §23-17-202.

Opting out of underground damage coverage, §23-17-241.

Organizational meetings, §23-17-213.

Personal property.

- Powers, §23-17-205.

Persons.

- Defined, §23-17-202.

Powers.

- Generally, §23-17-205.

Public service commission.

- Commission defined, §23-17-202.
- Consolidation.
- Approval of commission required, §23-17-224.
- Jurisdiction, §23-17-206.

RURAL TELECOMMUNICATIONS**COOPERATIVES —Cont'd****Purpose**, §23-17-204.**Qualifications of members**,
§23-17-215.**Quorum.**

Board of directors, §23-17-220.

Real property.Mortgage, pledge or other disposition,
§23-17-231.

Powers, §23-17-205.

Revenues.

Bylaws.

Provisions for disposition,
§23-17-228.

Use, §23-17-229.

Rural areas.

Defined, §23-17-202.

Salaries.

Directors, §23-17-218.

Seals and sealed instruments.Power to adopt and use corporate seal,
§23-17-205.**Short title of act**, §23-17-201.**Standards of conduct for directors**,
§23-17-239.**State agencies.**

Defined, §23-17-202.

Taxation.

Exemptions, §23-17-230.

Telecommunications companies.

Defined, §23-17-202.

Telecommunication services.

Defined, §23-17-202.

Furnishing to rural areas.

Purposes of cooperatives,
§23-17-204.**Telecommunications regulatory****reform**, §§23-17-401 to 23-17-415.**Title of act.**

Short title, §23-17-201.

Unclaimed capital credits,
§23-17-240.**Underground damage coverage**
opted-out, §23-17-241.**Use of revenues**, §23-17-229.**Voting.**

Members, §23-17-217.

S**SAFE DEPOSIT BOXES**, §§23-47-901
to 23-47-906.**Adverse claims to contents**,
§23-47-905.**Liability of bank for losses**,
§23-47-901.**SAFE DEPOSIT BOXES —Cont'd****Limitation on right of access.**Compliance with security procedures,
§23-47-904.**Minors.**

Leases to minors, §23-47-903.

Multiple-party leases, §23-47-902.**Nonpayment of rent**, §23-47-906.**Remedies.**

Nonpayment of rent, §23-47-906.

Security procedures.

Compliance required, §23-47-904.

SAFETY.**Amusement ride and attraction****safety generally**, §§23-89-501 to
23-89-518.

See AMUSEMENTS.

Carriers.

Requirements, §23-3-113.

Pipelines, §§23-15-201 to 23-15-217.

See PIPELINES.

Public utilities.

Requirements, §23-3-113.

Railroads.

See RAILROADS.

**SAFETY RESPONSIBILITY, MOTOR
VEHICLES.****Insurance.**

College graduates.

Premium reduction for, §23-89-210.

Underinsured motorists, §23-89-209.**Uninsured motorists.**

Casualty insurance.

Bodily injury coverage, §23-89-403.

Insurers' insolvency protection,
§23-89-402.Property damage coverage,
§23-89-404.

Subrogation of insurer, §23-89-405.

Uninsured motorists defined,
§23-89-401.**SALARIES.****Bank department.**

Staff, §23-46-206.

Public service commission, §23-2-101.

Assistant general counsel, §23-2-106.

Payment, §23-2-110.

Time of payment, §23-2-111.

Rural telephone cooperatives.

Directors, §23-17-218.

SALES.**Building and loan associations.**

Assets.

All or a portion of assets,
§23-38-218.

SALES —Cont'd**Checks.**

Sale of checks, §§23-41-101 to 23-41-122.

See CHECKS.

Motor vehicles.

Used motor vehicle buyers protection, §§23-112-601 to 23-112-612.

See SALES.

Railroads.

Sale or lease on road or property.

See RAILROADS.

Securities regulation generally.

See SECURITIES REGULATIONS.

Trust companies.

Engaging in commerce prohibited, §23-51-127.

SAVINGS AND LOAN ASSOCIATIONS.**Accounts and accounting.**

Bonds, surety, §23-37-511.

Claims.

Conflicting claims as to accounts, §23-37-506.

Deceased nonresidents, §23-37-504.

Dividends on savings accounts, §23-37-403.

Additional provisions to coincide with federal associations, §23-37-403.

Fiduciaries' savings accounts, §23-37-503.

Initial subscriptions to savings accounts in permanent stock associations, §23-37-305.

Insurance of accounts, §23-37-308.

Lien on savings account of borrower, §23-37-509.

Minors.

Savings accounts of minors, §23-37-501.

Powers of attorney on savings accounts, §23-37-508.

Practices generally, §23-37-211.

Savings accounts in the names of two or more persons, §23-37-502.

Withdrawals from savings accounts. Procedure, §23-37-505.

Restrictions on withdrawals, §23-37-505.

Actions.**Damages.**

Limitation on right to recover damages from association, §23-37-507.

Agents.

Foreign associations, §23-37-602.

Amendments.

Charter and bylaws, §23-37-312.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Appeals.**

Decision or order of board, §23-37-214.

Appeal to supreme court, §23-37-214.

Applicability of provisions.

Act controlling, §23-37-102.

Business corporation act, §23-37-105.

Federal associations, §23-37-106.

Audits.

Annual audit and examination procedure, §23-37-210.

Board.

Enforcement of chapter, §23-37-201.

Bonds, surety.**Brokers.**

Licenses, §23-37-603.

Directors, officers and employees, §23-37-314.

Savings accounts as security for bonds, §23-37-511.

Boundaries.

Foreign associations.

Operation in city on state line, §23-37-601.

Branch offices.

Approval or denial, §23-37-404.

Opening, §23-37-404.

Brokers' licenses.

Application, §23-37-603.

Bonds, surety, §23-37-603.

Contents, §23-37-603.

Fees, §23-37-603.

Forms, §23-37-603.

Qualifications for license, §23-37-603.

Termination, §23-37-603.

Building and loan associations.

General provisions, §§23-38-101 to 23-38-404.

See BUILDING AND LOAN ASSOCIATIONS.

Business corporation act.

Applicability of provisions, §23-37-105.

Bylaws.

Amendments, §23-37-312.

Contents, §23-37-307.

Generally, §23-37-307.

Capital development companies.

Investment in and loans to, §23-32-202.

Capital stock.

Issuance, §23-37-303.

Par value, §23-37-303.

Retirement, §23-37-303.

Certificates of deposit.

Agency designations, §§23-32-501 to 23-32-507.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Charter.**

- Amendments, §23-37-312.
- Application, §23-37-301.
- Approval, §23-37-310.
- Hearings, §23-37-309.
- Refusal to charter application, §23-37-310.
- Approval of application for charter, §23-37-310.
- Commencement of business.
 - Failure to commence business.
 - Forfeiture of charter, §23-37-311.
- Contents, §23-37-301.
- Form, §23-37-301.
- Hearings.
 - Applications, §23-37-309.
- Oaths, §23-37-301.
- Refusal to charter application, §23-37-310.

Claims.

- Conflicting claims as to account.
 - Withholding payment of withdrawals, §23-37-506.

Commencement of business.

- Charters.
 - Failure to commence business.
 - Forfeiture of charter, §23-37-311.
- Failure to commence business, §23-37-311.

Commissions.

- Sale of stock, §23-37-406.

Compensating use tax.

- Applicability of provisions, §23-37-108.

Confidentiality of information.

- Divulging of information by employees, §23-37-202.

Construction and interpretation.

- Act controlling, §23-37-102.

Controlling nature of provisions,
§23-37-102.**Conversion from mutual association
to stock association.**

- Federal mutual to state stock association, §23-37-704.
- Procedure, §23-37-703.

Conversion into federal association.
Procedure, §23-37-701.**Conversion into state-chartered
associations.**

- Procedure, §23-37-702.

**Conversion of national association
into state bank, §23-48-504.****Corporate name.**

- Change of name, §23-37-313.
- Exclusive use, §23-37-315.
- Injunctions against violation, §23-37-315.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Damages.**

- Limitation on right to recover damages from association, §23-37-507.

Definitions, §23-37-101.

- Regional savings and loan associations, §23-37-802.

Directors.

- Bonds, surety, §23-37-314.
- Standards of conduct.
 - Enumerated, §23-37-316.
 - Liability, §23-37-316.

Dividends.

- Savings accounts, §23-37-403.
 - Additional provisions to coincide with federal associations, §23-37-403.

Division.

- Administration, §23-37-206.
- Creation, §23-37-206.

Employees.

- Bonds, surety, §23-37-314.

Examinations.

- Annual audit and examination procedure, §23-37-210.

Farm credit act of 1971.

- Bond issues.
 - Authorized investments, §23-32-201.

Federal associations.

- Applicability of provisions, §23-37-106.
- Conversion into federal association.
 - Procedure, §23-37-701.

Fees.

- Collection by supervisor, §23-37-107.
- Membership charges.
 - Prohibited, §23-37-405.

Fiduciaries.

- Savings accounts, §23-37-503.

Foreign associations.

- Agents, §23-37-602.
- Operation in city on state line, §23-37-601.

Former laws.

- Associations incorporated under former laws conformed to provisions of act, §23-37-104.

Funds.

- Expense fund required for mutual association, §23-37-306.

Gross receipts tax.

- Applicability of provisions, §23-37-108.

Hearings.

- Charters.
 - Applications, §23-37-309.

Injunctions.

- Enforcement of chapter by injunction, §23-37-212.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Insurance.**

Accounts, §23-37-308.

Investments, §23-63-823.

Investigations.

Supervisor.

Powers, §23-37-208.

Investments.

Insurance, §23-63-823.

Legal investments in associations,
§23-37-512.**Legal investments in associations,**
§23-37-512.**Liens.**

Savings accounts, §23-37-509.

**Limitation of right to do business as
savings and loan association,**
§23-37-103.**Loans.**Servicemen's Readjustment Act,
§23-32-205.**Mandamus.**Enforcement of act by mandamus,
§23-37-212.**Members.**Charges of membership.
Prohibited, §23-37-405.**Merger.**

Power of association, §23-37-705.

Savings and loan association into state
bank, §23-48-503.**Minors.**Savings accounts of minors,
§23-37-501.**Miscellaneous powers of
associations,** §23-37-401.**Mortgage loans.**Sale of certain mortgage loans,
§23-32-204.**Mutual associations.**Conversion from mutual association to
stock association.Federal mutual to state stock
association, §23-37-704.

Procedure, §23-37-703.

Expense funds.

Required, §23-37-306.

Liquidation.

Distribution upon liquidation,
§23-37-306.**Names.**Corporate name, §§23-37-313,
23-37-315.

Restrictions on use, §23-32-209.

Oaths.

Charter, §23-37-301.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Officers.**

Bonds, surety, §23-37-314.

Offices.

Branch offices.

Approval or denial, §23-37-404.

Evidence of opening branch office,
§23-37-404.

Location.

Change of location, §23-37-313.

Opening branch office, §23-37-404.

Orders.

Cease and desist orders.

Enforcement of chapter by,
§23-37-212.**Power of attorney.**

Savings accounts, §23-37-508.

Powers.Additional powers of associations,
§23-37-401.Reorganization, merger or
consolidation, §23-37-705.**Records.**

Hearings and decisions, §23-37-204.

**Regional savings and loan
associations.**

Acquisitions.

Holding company acquisitions not
requiring prior approval,
§23-37-806.Permissible nondisqualified
acquisitions, §23-37-808.

Prohibited acquisitions, §23-37-809.

Acts requiring prior approval of board,
§23-37-804.Applications for approval,
§23-37-807.Acts requiring prior approval of
federal authorities, §23-37-805.

Board.

Acts requiring prior approval of,
§23-37-804.Applications for approval,
§23-37-807.

Citation of subchapter, §23-37-801.

Definitions, §23-37-802.

Deposits.

Determination of total deposits,
§23-37-812.

Federal home loan bank board.

Acts requiring prior approval of,
§23-37-805.

Holding companies.

Acquisitions not requiring prior
approval, §23-37-806.

Laws of Arkansas.

Applicability, §23-37-810.

Registration, §23-37-811.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Regional savings and loan associations —Cont'd**

Reports, §23-37-811.

Title of subchapter, §23-37-801.

Violation of subchapter.

Penalties, §23-37-803.

Remedies, §23-37-803.

Releases.

Validity of release or acquittance by
officers of corporation or
association, §23-37-510.

Reorganization.

Power of association, §23-37-705.

Requirements, §23-37-307.**Rules and regulations.**

Requirements for a new or existing
association, §23-37-302.

Servicemen's Readjustment Act.

Loans, §23-32-205.

State-chartered associations.

Conversion into.

Procedure, §23-37-702.

Stock and stockholders.

Sales.

Commissions.

Prohibition on payment of
commissions, §23-37-406.

Supervisor.

Communications from supervisor.

Manner of sending, §23-37-209.

Designation, §23-37-208.

Duties.

Generally, §23-37-207.

Enforcement of chapter, §23-37-201.

Fees.

Collection, §23-37-107.

Powers.

Generally, §23-37-207.

Investigatory powers, §23-37-208.

Records of hearings and decisions,
§23-37-204.

Staff, §23-37-206.

Surplus.

Paid-in surplus requirements for
permanent stock associations,
§23-37-304.

Taxation.

Compensating use tax, §23-37-108.

Gross receipts tax, §23-37-108.

Transaction of business.

Limitation of right to do business as
savings and loan association,
§23-37-103.

Trusts and trustees.

Action as trustee not deemed an
investment advisor, §23-37-402.

SAVINGS AND LOAN**ASSOCIATIONS —Cont'd****Trusts and trustees —Cont'd**

Authority to act as trustee for certain
trusts, §23-37-402.

Withdrawals from savings accounts.

Conflicting claims to accounts.

Withholding payments, §23-37-506.

Procedure, §23-37-505.

SAVINGS BANKS.**Certificates of deposit.**

Agency designations, §§23-32-501 to
23-32-507.

SEALS AND SEALED**INSTRUMENTS.****Bank department, §23-46-203.****Insurance.**

Commissioner, §23-61-102.

Rural telecommunications**cooperatives.**

Power to adopt and use corporate seal,
§23-17-205.

SECRETARY OF STATE.**Foreign investor companies.**

Service of process.

Authority to sue and be sued,
§23-32-405.

Consent to service from secretary,
§23-32-404.

Railroads.

Passes.

Permitted to accept and use pass,
§23-4-804.

SECURED TRANSACTIONS.**Insurance.**

Creditor-placed insurance,
§§23-101-101 to 23-101-114.

See CREDITOR-PLACED
INSURANCE.

SECURITIES.**Bond issues generally.**

See BOND ISSUES.

Electric cooperative corporations.

Exemptions from securities act,
§23-18-330.

Insurance.

Holding companies.

Voting of securities, §23-63-520.

Regulation of securities.

See SECURITIES REGULATIONS.

Trust companies.

Investments, §23-51-123.

Voting securities held in trust
capacity, §23-51-190.

SECURITIES REGULATIONS.**Administration of chapter.**

Securities commissioner, §23-42-201.

SECURITIES REGULATIONS

—Cont'd

Advertising.

Filing requirement, §23-42-502.

Agents.

Registration, §23-42-301.

Application, §23-42-302.

Contents, §23-42-302.

Bonds, surety, §23-42-305.

Denial of registration, §23-42-308.

Examination, §23-42-302.

Fees, §23-42-304.

Revocation of registration,
§23-42-308.Suspension of registration,
§23-42-308.Withdrawal of registration,
§23-42-308.

Reports, §23-42-306.

Applicability of chapter, §23-42-103.**Assignments.**Unlawful acts by investment advisers,
§23-42-307.**Bonds, surety.**

Agents.

Registration, §23-42-305.

Broker-dealers.

Registration, §23-42-305.

Investment advisors.

Registration, §23-42-305.

Broker-dealers.

Records of broker-dealers, §23-42-306.

Registration, §23-42-301.

Application, §23-42-302.

Bonds, surety, §23-42-305.

Capital requirements, §23-42-303.

Denial of registration, §23-42-308.

Examination, §23-42-302.

Fees, §23-42-304.

Revocation of registration,
§23-42-308.Suspension of registration,
§23-42-308.Withdrawal of registration,
§23-42-308.

Reports of broker-dealers, §23-42-306.

Citation of chapter, §23-42-101.**Civil liability.**

Violation of chapter, §23-42-106.

Commissioner.

Administration of chapter, §23-42-201.

Appointment, §23-42-201.

Confidentiality of information,
§23-42-203.Cooperation with other regulatory
agencies, §23-42-208.

Delegation of authority, §23-42-202.

SECURITIES REGULATIONS

—Cont'd

Commissioner —Cont'd

Duties of commissioner.

Investigations, §23-42-205.

Take-over offers, §23-43-108.

Enforcement of act.

By injunction or mandamus,
§23-42-209.

Exempt from registration.

Registration or availability of
exemption does not indicate
approval by commissioner,
§23-42-212.

Fees.

Disposition, §23-42-211.

Injunctions.

Enforcement of act by injunction,
§23-42-209.

Investigations.

Public or private investigation,
§23-42-205.

Mandamus.

Enforcement of act by mandamus,
§23-42-209.Mortgage banker, brokers and
servicers.Licensing and regulation generally,
§§23-39-501 to 23-39-516.See MORTGAGE BANKERS,
BROKERS AND SERVICERS.

Opinions.

Interpretive opinions, §23-42-206.

Orders of commissioner, §23-42-204.

Registration.

Rules, forms or orders of
commissioner, §23-42-204.Review of commissioner's order,
§23-42-210.

Powers and duties.

Investigations, §23-42-205.

Take-over offers, §23-43-108.

Records.

Copies, §23-42-206.

Generally, §23-42-206.

Inspection, §23-42-207.

Registration.

Availability of exemption or
registration does not indicate
approval by commissioner,
§23-42-212.

Service of process.

Consent to service, §23-42-107.

Take-over offers.

Certain facts do not constitute
finding by commissioner,
§23-43-116.

SECURITIES REGULATIONS

—Cont'd

Commissioner —Cont'd

Take-over offers —Cont'd

General powers and duties of
commissioner, §23-43-108.**Compliance with chapter.**

Waiver.

Void, §23-42-109.

Confidentiality of information.

Commissioner, §23-42-203.

Copies.

Records of commissioner, §23-42-206.

Covered securities, §23-42-509.**Criminal law and procedure.**Penalties for criminal violation,
§23-42-104.Prosecution of criminal offenses,
§23-42-105.**Definitions, §23-42-102.**

Take-over offers, §23-43-102.

Enforcement of act.By injunction or mandamus,
§23-42-209.**Evidence.**

Violation of provisions, §23-42-105.

Exemption from registration.

Commissioner.

Registration or availability of
exemption does not indicate
approval by commissioner,
§23-42-212.Exempted securities enumerated,
§23-42-503.Transactions and securities exempt
from registration, §§23-42-503,
23-42-504.Burden of proof of exemption,
§23-42-506.Denial or revocation of exemption,
§23-42-505.**False or misleading statements
unlawful, §23-42-110.****Fees.**

Disposition, §23-42-211.

Registration statements, §23-42-404.

Take-over offers.

Filing fees, §23-43-117.

Fines.

Violations of subchapter, §23-42-308.

Forms.

Commissioner.

Rules, forms and orders of
commissioner, §23-42-204.**Fraud.**

Securities fraud.

Criminal penalty for violations,
§23-42-104.**SECURITIES REGULATIONS**

—Cont'd

Fraud —Cont'dTake-over offers, §§23-43-113 to
23-43-115.Enumeration of fraudulent or
deceptive practices, §23-43-114.Unlawful acts by investment advisers,
§23-42-307.Unlawful false or misleading
statements, §23-42-110.**Hearings.**

Take-over offers.

Expenses of hearing, §23-43-117.

Injunctions.

Commissioner.

Enforcement of act by injunction,
§23-42-209.

Take-over offers.

Action to enjoin violation of act,
§23-43-109.**Investigations.**

Commissioner.

Powers and duties, §23-42-205.

Investment advisers.Records of investment advisers,
§23-42-306.

Application, §23-42-302.

Bonds, surety, §23-42-305.

Denial of registration, §23-42-308.

Examination, §23-42-302.

Fees, §23-42-304.

Registration, §23-42-301.

Revocation of registration,
§23-42-308.Suspension of registration,
§23-42-308.Withdrawal of registration,
§23-42-308.Reports of investment advisers,
§23-42-306.**Investor education fund, §23-42-213.****Issuers.**

Records, §23-42-306.

Reports, §23-42-306.

Liability.

Civil liability, §23-42-106.

Take-over offers, §23-43-106.

Limitation of actions.

Violation of provisions, §23-42-105.

Mandamus.

Commissioner.

Enforcement of act by mandamus,
§23-42-209.**Misdemeanors.**Criminal penalties for violations,
§23-42-104.

SECURITIES REGULATIONS

—Cont'd

Misleading statements unlawful,
§23-42-110.**Misrepresentation.**Unlawful acts by investment advisers,
§23-42-307.**Notice.**Registration of securities by
notification, §23-42-401.**Offer, sale or purchase of securities.**Sales literature or prospectus may be
required to be filed, §23-42-502.Unlawful acts in connection with offer,
sale or purchase, §23-42-507.**Orders.**Review of commissioner's orders,
§23-42-210.Rules, forms and orders of
commissioner, §23-42-204.**Penalties.**Criminal penalties for violations,
§23-42-104.

Take-over offers.

Violations of act, §23-43-105.

Prospectus.

Filing requirement, §23-42-502.

Purchase of securities.Unlawful acts by investment advisers,
§23-42-307.Unlawful acts in connection with offer,
sale or purchase, §23-42-507.**Reciprocity.**

Commissioner.

Cooperation with other regulatory
agencies, §23-42-208.**Records.**

Agents, §23-42-306.

Broker-dealers, §23-42-306.

Commissioner, §23-42-206.

Inspection, §23-42-207.

Investment advisers, §23-42-306.

Issuers, §23-42-306.

Registration.

Commissioner.

Availability of exemption or
registration does not indicate
approval by commissioner,
§23-42-212.

Coordination.

By coordination registration of
securities, §23-42-402.Information contained in
registration statement,
§23-42-402.**SECURITIES REGULATIONS**

—Cont'd

Registration —Cont'dExempt securities and transactions
from registration, §§23-42-503,
23-42-504.Burden of proof of exemption,
§23-42-506.Denial or revocation from
exemption, §23-42-505.

Notice.

By notification registration of
securities, §23-42-401.

Qualification.

By qualification registration of
securities, §23-42-403.Information contained in
registration statement,
§23-42-403.Sale of unregistered nonexempt
securities unlawful, §23-42-501.Transactions and securities exempt
from registration, §§23-42-503,
23-42-504.Burden of proof of exemption,
§23-42-506.Denial or revocation of exemption,
§23-42-505.**Registration statements.**

Amendment, §23-42-404.

Conditions for registration,
§23-42-404.

Coordination.

By coordination registration of
securities, §23-42-402.Denial of registration statement,
§23-42-405.

Duration, §23-42-404.

Effective period, §23-42-404.

Fee.

Filing fee, §23-42-404.

Filing, §23-42-404.

Fee, §23-42-404.

Qualification.

By qualification registration of
securities, §23-42-403.Revocation of registration statement,
§23-42-405.Suspension of registration statement,
§23-42-405.**Reports.**

Agents, §23-42-306.

Broker-dealers, §23-42-306.

Investment advisers, §23-42-306.

Issuers, §23-42-306.

Rights and remedies cumulative,
§23-42-108.

SECURITIES REGULATIONS

—Cont'd

Rules and regulations.

Commissioner.

Forms, rules and orders of
commissioner, §23-42-204.**Sale or purchase of securities.**Unlawful acts by investment advisers,
§23-42-307.Unlawful acts in connection with offer,
sale or purchase of securities,
§23-42-507.**Sales literature.**

Filing requirement, §23-42-502.

Service of process.

Commissioner.

Consent to service, §23-42-107.

Solicitations.

Take-over offers.

Filing of solicitation material,
§23-43-113.**Stock market.**Manipulation of market prohibited,
§23-42-508.**Take-over offers.**Action to enjoin violation of act,
§23-43-109.Applicability of act, §§23-43-103,
23-43-104.

Citation of chapter, §23-43-101.

Commissioner of securities.

Certain facts do not constitute
finding by commissioner,
§23-43-116.General powers and duties of
commissioner, §23-43-108.

Conflicts with act.

Applicability of act, §23-43-104.

Definitions, §23-43-102.

False or misleading statements,
§23-43-115.Solicitation material, §§23-43-113,
23-43-115.

Filing fee, §23-43-117.

Filing of ownership information,
§23-43-110.Filing of solicitation material,
§23-43-113.

Findings by commissioner.

Certain facts do not constitute
finding, §23-43-116.Fraudulent acts prohibited,
§§23-43-113, 23-43-115.Enumeration of fraudulent or
deceptive practices, §23-43-114.

Hearing expenses, §23-43-117.

Inapplicability to act, §§23-43-103,
23-43-104.**SECURITIES REGULATIONS**

—Cont'd

Take-over offers —Cont'd

Injunctions.

Enforcement of act, §23-43-109.

Liability of purchasers and others,
§23-43-106.

Misleading statements, §23-43-115.

Ownership information.

Filing of information, §23-43-110.

Penalties for violation of provisions,
§23-43-105.Procedure for take-over offers,
§23-43-111.

Effective under act, §23-43-111.

Exemption by rule or order of
commissioner, §23-43-111.Rights and remedies cumulative,
§23-43-107.

Solicitation material.

False statements in material,
§23-43-113.

Filing of material, §23-43-113.

Terms of take-over offer, §23-43-112.

Title of chapter, §23-43-101.

Violation of act.

Action to enjoin violation,
§23-43-109.**Title of chapter**, §23-42-101.**Unlawful acts**, §23-42-307.Offer, sale or purchase of securities,
§23-42-507.

Unregistered securities.

Sale of unregistered nonexempt
securities unlawful, §23-42-501.**Venue.**

Violation of provisions, §23-42-105.

Waiver.

Compliance with chapter.

Void, §23-42-109.

SELF-INCRIMINATION.**Highways.**State highway and transportation
department.

Witnesses.

No bar to testimony, §23-2-411.

Public service commission**witnesses**, §23-2-411.**SENTENCING.****Habitual offenders.**Used motor vehicle buyers protection,
§23-112-603.**SERVICEMEN'S READJUSTMENT
ACT.****Loans**, §23-32-205.**SERVICE OF PROCESS.****Attorneys at law.**

Legal insurance, §23-91-208.

SERVICE OF PROCESS —Cont'd
Automobile clubs or associations,
 §23-77-106.

Banks.

Out-of-state banks, §23-48-1007.

Foreign investor companies.

Consent to service from secretary of
 state, §23-32-404.

Authority to sue and be sued,
 §23-32-405.

Fraternal benefit societies.

Registered agent, §23-74-701.

Highways.

State highway and transportation
 department, §23-2-405.

Complaints.

Service of copy of complaint,
 §23-3-119.

Insurance.

See INSURANCE.

Motor carriers.

Agent for service, §23-13-216.

Complaints against carriers,
 §23-13-304.

Notice.

Civil procedure.

See NOTICE.

Pipelines.

Foreign corporations, §23-3-108.

Public service commission, §23-2-405.

Orders, §23-2-421.

Public utilities.

Complaints to commission.

Service of copy of complaint,
 §23-3-119.

Foreign corporations, §23-3-108.

Railroads.

Livestock.

Killing or injuring.

Service upon agent of railroad
 company, §23-12-905.

**Risk retention and purchasing
 groups.**

Foreign risk retention groups.

Designation of commissioner as
 agent for, §23-94-205.

Purchasing groups.

Designation of commissioner as
 agent, §23-94-208.

Securities regulation.

Commissioner.

Consent to service, §23-42-107.

Trust companies.

Principal office, §23-51-172.

SETOFFS.

Certificates of deposit.

Agency accounts, §23-47-308.

Agency designation, §23-32-508.

SETOFFS —Cont'd

Financial institutions.

Agency accounts, §23-32-508.

SHERIFFS.

Railroads.

Passes.

Permitted to accept and use pass,
 §§23-4-804, 23-4-805.

SICKNESS INSURANCE.

Credit life and disability insurance,

§§23-87-101 to 23-87-119.

See CREDIT LIFE AND DISABILITY
 INSURANCE.

Health insurance.

Generally.

See HEALTH INSURANCE.

Mutual assessment life and

disability insurers, §§23-72-101 to
 23-72-122.

See MUTUAL ASSESSMENT LIFE
 AND DISABILITY INSURERS.

SIGNATURES.

Insurance.

Records.

Electronic, electronic
 facsimile-transmitted or
 computer-readable signatures,
 §23-61-107.

SLEEPING CARS.

Rates and charges, §23-4-615.

SMALL BUSINESSES.

Insurance.

Small employer health insurance,
 §§23-86-201 to 23-86-209.

See HEALTH INSURANCE.

Small employer health insurance
 purchasing groups, §§23-86-501 to
 23-86-512.

See HEALTH INSURANCE.

**SMALL BUSINESS INVESTMENT
 COMPANIES.**

Bank subsidiaries, §23-47-606.

SOLICITATION.

Securities regulation.

Take-over offers.

Filing of solicitation material,
 §23-43-113.

SOLICITORS.

Insurance.

See INSURANCE.

SOVEREIGN IMMUNITY.

Insurance.

Direct action against insurers,
 §23-79-210.

SPACE WALKS.

Insurance for amusements,
§§23-89-501 to 23-89-518.

See AMUSEMENTS.

STATE DEPARTMENTS AND AGENCIES.**Securities regulation.**

State securities department.

See SECURITIES REGULATIONS.

State highway and transportation department.

See HIGHWAYS.

STATE INSURANCE DEPARTMENT PREPAID TRUST FUND.

Prepaid funeral benefits, §23-40-107.

STATE OF ARKANSAS.

Direct actions against insurer,
§23-79-210.

STATE POLICE.**Motor vehicles.**

Used motor vehicle buyers protection.

Disbursement of fines, §23-112-603.

STATUTE OF LIMITATIONS.**Banks.**

Dissolution and liquidation.

Claims, §23-49-109.

Health insurance portability and accountability, §23-86-302.**Insurance.**

Policies.

Suits against insurers, §23-79-202.

Loan brokers.

Advance fee loan brokers.

Action for violation of subchapter,
§23-39-405.

Railroads.

Discrimination.

Actions for damages, §23-4-705.

Actions to recover penalty,
§23-10-103.

Freight.

Damages for violations of act,
§23-10-431.

Rural telecommunications cooperatives.

Suits against telecommunications
companies or cooperatives,
§23-17-237.

Securities regulations.

Violations of provisions, §23-42-105.

Trust companies.

Dissolution and liquidation.

Claims, §23-49-109.

STAYS.**Public utilities.**

Acquisition, control or merger.

Stay of order pending review,
§23-3-314.

STIPULATED PREMIUM

INSURERS, §§23-71-101 to
23-71-116.

Applicability of code provisions,
§23-71-102.

Miscellaneous provisions, §23-71-103.

Articles of incorporation, §23-71-107.

Attachment.

Benefits.

Not subject to attachment,
§23-71-112.

Benefits.

Attachment, §23-71-112.

Contracts.

Use of name stipulated premium in
contract, §23-71-106.

Conversions.

Legal reserve insurers, §23-71-116.

Defined, §23-71-101.

Deposits.

Guaranty fund deposit, §23-71-110.

Return of deposit, §23-71-110.

Exclusive nature of provisions,
§23-71-102.

Formation.

Prohibited, §23-71-104.

Funds.

Guaranty fund deposit, §23-71-110.

Incorporation.

Prohibited, §23-71-104.

Insolvency, §23-71-113.

Insuring powers, §23-71-109.

Liabilities, §23-71-111.

Personal liability of officers, directors,
stockholders or employees,
§23-71-114.

Mergers, §23-71-115.

New insurers, §23-71-108.

Nonforfeiture provisions.

Required, §23-71-105.

Other provisions applicable,
§23-71-103.

Policies.

Issuance, §23-71-111.

Use of name stipulated premium,
§23-71-106.

Powers to insure, §23-71-109.

Reincorporation as.

Prohibited, §23-71-104.

Reserves.

Required, §23-71-105.

Scope of chapter, §23-71-102.

Solvency, §23-71-113.

Stock and stockholders.

Capital stock, §23-71-107.

STOCK AND STOCKHOLDERS.**Banks.**

See BANKS.

STOCK AND STOCKHOLDERS

—Cont'd

Building and loan associations.

See BUILDING AND LOAN ASSOCIATIONS.

Domestic stock and mutual insurers.

See DOMESTIC STOCK AND MUTUAL INSURERS.

Financial institutions.

Banks.

See BANKS.

Building and loan associations.

See BUILDING AND LOAN ASSOCIATIONS.

Industrial loan institutions,

§§23-36-102, 23-36-103.

Health maintenance organizations.

Investments, §23-76-117.

Industrial loan institutions,

§§23-36-102, 23-36-103.

Insurance.

See INSURANCE.

Public utilities.

Stocks and bonds.

See PUBLIC UTILITIES.

Railroads.

Consolidation.

See RAILROADS.

Corporations.

See RAILROADS.

Savings and loan associations.

Sales.

Commission prohibited, §23-37-406.

Securities regulations generally.

See SECURITIES REGULATIONS.

STOCK MARKET.**Securities regulations.**Manipulation of market prohibited,
§23-42-508.**STREETCARS.****Railroads.**

Street railroads generally.

See RAILROADS.

SUBPOENAS.**Check-cashers.**

Investigation of complaints.

Board of collection agencies,
§23-52-117.**Checks.**

Sale of checks act.

Hearings.

Power of subpoena, §23-41-121.

Greyhound racing.Powers of racing commission,
§23-111-205.**SUBPOENAS —Cont'd****Highways.**

State highway and transportation department.

Powers, §§23-2-313, 23-2-407.

Production of books and records,
§23-2-408.

Refusal to comply, §23-2-409.

Horse racing.

Racing commission.

Powers, §23-110-205.

Mortgage bankers, brokers and servicers.

Investigation or examination of loans or business, §23-39-514.

Motor carriers.Complaints against carriers,
§§23-13-302, 23-13-309.Transportation safety agency,
§23-13-210.**Public service commission.**

Failure to comply, §23-2-409.

Powers of commission, §§23-2-313,
23-2-407.Production of books and records,
§23-2-408.**Title insurance.**

Agent licenses.

Board, §23-103-202.

Trust companies.

Commissioner's powers, §23-51-190.

SUBROGATION.**Carriers.**

Insurance.

Uninsured motorist liability insurance, §23-16-304.

Health insurance.Recovery from third parties,
§23-79-146.**Health maintenance organizations.**Recovery from third parties,
§23-79-146.**Hospital and medical service corporations.**Recovery from third parties,
§23-79-146.**Insurance.**

Casualty insurance.

Injured person subrogated to right of insured, §23-89-101.

Insurer making payment,
§23-89-405.

Life and health insurance guaranty association.

Subrogation rights, §23-96-114.

Recovery from third parties,
§23-79-146.

SUBROGATION —Cont'd**Railroads.**

Freight.

Damages.

Liability of initial carrier,
§23-10-303.**Underinsured motorists, §23-89-209.****SUBSIDIARIES.****Banks.**

See BANKS.

Insurance.

Holding companies, §23-63-505.

SUNDAY.**Horse racing.**

Racing meets.

Sunday racing, §23-110-402.

**SURETY INSURERS, §§23-63-1001 to
23-63-1004.**

See INSURANCE.

SURETYSHIP.**Bonds, surety.**

General provisions.

See BONDS, SURETY.

SURPLUS LINES INSURANCE.**Insurance generally.**

See INSURANCE.

SURVIVING SPOUSES.**Insurance.**

Group and blanket health insurance.

Continuation of coverage upon
change in marital status,
§23-86-114.**SWITCHES.****Railroads.**

See RAILROADS.

T**TAKE-OVER OFFERS.****Security regulations, §§23-43-101 to
23-43-117.**

See SECURITIES REGULATIONS.

TAXATION.**Admission tax.**

Greyhound racing, §23-111-510.

Horse racing, §23-110-411.

Attorneys at law.

Legal insurance.

Premiums, §23-91-226.

Captive insurance companies.

Premium tax, §23-63-1614.

Credit unions.

Extent of taxation, §23-35-103.

**Electric cooperative corporations,
§23-18-328.****TAXATION —Cont'd****Employee leasing firms.**Responsibility of licensed firms,
§23-92-315.**Exemptions from taxation.**

Fraternal benefit societies, §23-74-504.

Rural telecommunications
cooperatives, §23-17-230.**Fraternal benefit societies.**

Exemptions from taxation, §23-74-504.

Greyhound racing.

Admission tax, §23-111-510.

Disposition of taxes, §23-111-104.

Health maintenance organizations.

Premiums and copayments.

Tax on, §23-76-131.

Horse racing.

Admission tax, §23-110-411.

Disposition of taxes, §23-110-104.

**Hospital and medical service
corporations.**

Exemptions, §23-75-120.

Premium tax, §23-75-119.

Hospitals.

Exemptions.

Hospital and medical service
corporations, §23-75-120.**Insurance.**

Brokers.

Surplus lines, §23-65-315.

Domestic stock and mutual insurers.

Personal property.

Situs for taxation, §23-69-136.

Foreign taxes.

Retaliation, §23-63-102.

Legal insurance.

Premiums, §23-91-226.

Life and health insurance guaranty
association.

Exemption, §23-96-109.

Member insurers.

Premium tax credit, §23-96-115.

Premium taxes.

General provisions.

See INSURANCE.

Property and casualty insurance
guaranty.Assessment as credit against taxes,
§23-90-119.

Risk retention and purchasing groups.

Tax imposed for privilege of
transacting business,
§23-94-203.

Risk retention groups, §23-94-210.

Surplus lines, §23-65-315.

Independently procured coverages,
§23-65-103.

TAXATION —Cont'd**Legal insurance.**

Premiums, §23-91-226.

Motor carriers.

Municipalities may not tax,
§23-13-103.

Rural telephone cooperatives.

Exemptions, §23-17-230.

Savings and loan associations.

Compensating use tax, §23-37-108.

Gross receipts tax, §23-37-108.

Water power companies.

Power used exclusively for taker's
purposes, §23-18-410.

TAXICABS.**Motor carrier act of 1955.**

Exemptions, §23-13-206.

Bona fide taxi cab service.

Defined, §23-13-206.

Documents required to be in
possession of exempt carrier,
§23-13-265.

TELECOMMUNICATIONS,

§§23-17-401 to 23-17-415.

Adjustment of rates, §23-17-407.**Administrator, universal service
fund, §23-17-404.****AUSF charge for providers,
§23-17-404.****Basic local exchange service.**

Rates, §23-17-407.

Rural companies, §23-17-412.

**Certificates of public convenience
and necessity.**

Completing local exchange carrier,
§23-17-409.

**Completing local exchange carriers,
§23-17-409.**

Rural companies, §23-17-410.

Definitions, §23-17-403.**Electing companies, §23-17-406.****Eligible carriers, §23-17-405.****Extended area service, §23-17-414.****Extension of services to citizens not
served by wire line.**

Grants, §23-17-404.

Funds.

Arkansas universal service fund
(AUSF), §23-17-404.

Extension of facilities fund,
§23-17-404.

Grants.

Extension of services to citizens not
served by wire line, §23-17-404.

TELECOMMUNICATIONS —Cont'd**Intrastate interexchange message to
be terminated over switched
network.**

Transmitting telephone number of
originating party sending message
to terminating
telecommunications providers,
§23-17-415.

Legislative findings, §23-17-402.**Petitions.**

Change in basic local exchange service
rates.

Rural companies, §23-17-412.

Rate cap, adjustment, §23-17-407.**Rates, §§23-17-407, 23-17-408.**

Rural companies, §23-17-412.

Universal service charge to providers,
§23-17-404.

Regulatory reform, §23-17-411.**Regulatory reform act.**

Intrastate carrier common line
charges, §23-17-416.

Intrastate carrier common line pool
advisory procedural board,
§23-17-416.

**Rural companies, §§23-17-410,
23-17-412.****Rural telecommunications
cooperatives, §§23-17-201 to
23-17-242.**

See RURAL

TELECOMMUNICATIONS
COOPERATIVES.

Switched-access services.

Rates, §23-17-407.

Rural companies, §23-17-412.

Title, §23-17-401.**Unbundled network elements.**

Prices for, §23-17-409.

Universal service, §23-17-404.**TELEGRAPHS.****Corporations.**

Telephone and telegraph companies,
§§23-17-101 to 23-17-121.

See TELEPHONE AND
TELEGRAPH COMPANIES.

Rates and charges.

Overcharging.

Penalty, §23-17-111.

Prohibited, §23-17-111.

Penalties.

Overcharging, §23-17-111.

Schedule of rates.

Maintaining, §23-17-110.

Open to inspection, §23-17-110.

TELEPHONE AND TELEGRAPH COMPANIES.

Agreements for special terminating access rates, §23-17-121.

Calling plans in telephone exchanges, §23-17-120.

Contracts.

Exclusive privileges.

Contracts for prohibited, §23-17-105.

Damages.

Mental anguish.

Negligence in receiving, transmitting or delivering messages.

Additional nature of remedy, §23-17-112.

Generally, §23-17-112.

Jury to award damages, §23-17-112.

Deaf persons.

Surcharges to provide telecommunications for deaf and hearing impaired, §23-17-119.

Discrimination.

Prohibited, §23-17-113.

Emergencies generally.

Immediate dispatch of public messages during war or civil commotion, §23-17-106.

Failure to give immediate dispatch. Misdemeanor, §23-17-106.

Fees.

Initiation of residential telephone service.

Payments of fees in installments, §23-17-116.

Surcharges to provide communications for deaf and hearing impaired, §23-17-119.

Interception of message.

Misdemeanor, §23-17-107.

Mental anguish.

Receiving, transmitting or delivering messages, §23-17-112.

Misdemeanors.

Divulging contents of message, §23-17-109.

Immediate dispatch of public messages during war or civil commotion.

Failure to give immediate dispatch, §23-17-106.

Injuring equipment, §23-17-107.

Interception of message, §23-17-107.

Transmission of messages.

Order of receipt.

Violation of provisions, §23-17-106.

TELEPHONE AND TELEGRAPH COMPANIES —Cont'd

Negligence.

Damages for mental anguish, §23-17-112.

Penalties.

Divulging contents of message, §23-17-109.

Refusal to transmit message, §23-17-108.

Powers.

Construction and maintenance of lines, §23-17-101.

Public service commission.

Calling plans in telephone exchanges, §23-17-120.

Railroads.

Right of railroads to operate telegraphs and telephones, §23-17-102.

Refusal to transmit message.

Penalty, §23-17-108.

Residential service.

Fees for initiation of service.

Installment payments, §23-17-116.

Right of entry.

Construction purposes, §23-17-104.

Rights of way.

Condemnation upon failure to secure, §23-17-103.

Rural telecommunications cooperatives.

General provisions.

See RURAL

TELECOMMUNICATIONS COOPERATIVES.

Special terminating access rates.

Agreements for, §23-17-121.

Surcharges to provide

telecommunications for deaf and hearing impaired, §23-17-119.

Telecommunications regulatory reform act, §§23-17-401 to

23-17-415.

Transmission of messages.

Confidentiality, §23-17-106.

Divulging contents of message.

Penalty, §23-17-109.

Penalty for divulging contents of message, §23-17-109.

Immediate transmission during war or civil commotion, §23-17-106.

Negligence.

Damages for mental anguish, §23-17-111.

News transmissions, §23-17-106.

Order of receipt, §23-17-106.

Violations of provisions.

Misdemeanor, §23-17-106.

TELEPHONE AND TELEGRAPH COMPANIES —Cont'd**Transmission of messages —Cont'd**

Refusal to transmit message.

Penalty, §23-17-108.

Universal telephone service act.

General provisions, §§23-17-301 to 23-17-307.

See TELEPHONES.

Vandalism.

Injuring equipment.

Misdemeanor, §23-17-107.

War.

Immediate dispatch of public messages, §23-17-106.

Failure to give immediate dispatch.

Misdemeanor, §23-17-106.

TELEPHONES.**Corporations.**

Telephone and telegraph companies, §§23-17-101 to 23-17-121.

See TELEPHONE AND

TELEGRAPH COMPANIES.

Deaf persons.

Surcharges to provide telecommunications for deaf and hearing impaired, §23-17-119.

Definitions.

Universal telephone service act, §23-17-301.

Fees.

Residential telephone service.

Fee for initiation of services, §23-17-116.

Surcharges to provide communications for deaf and hearing impaired, §23-17-119.

Residential telephone service.

Fee for initiation of service.

Installment payments, §23-17-116.

Surcharges to provide

telecommunications for deaf and hearing impaired, §23-17-119.

Telecommunications regulatory

reform act, §§23-17-401 to 23-17-415.

Universal telephone service act.

Assessments.

Establishment of fund by assessing interexchange carriers, §23-17-304.

Citation, §23-17-301.

Commission.

Administration and distribution of fund, §23-17-307.

Allocation of fund, §23-17-306.

Defined, §23-17-303.

TELEPHONES —Cont'd**Universal telephone service act**

—Cont'd

Commission —Cont'd

Fund.

Duties of commission, §23-17-304.

Declaration of general assembly, §23-17-302.

Definitions, §23-17-303.

Effective date, §23-17-305.

Fund.

Administration, §23-17-307.

Allocations, §23-17-306.

Assessment.

Assessing interexchange carriers, §23-17-304.

Created, §23-17-304.

Distribution, §23-17-307.

Effective date, §23-17-305.

Purpose of fund, §23-17-302.

Interexchange carriers.

Defined, §23-17-303.

Interexchange communication services.

Defined, §23-17-303.

Legislative policy, §23-17-302.

Local exchange carriers.

Allocation of fund, §23-17-306.

Defined, §23-17-303.

Name of act, §23-17-301.

TEMP AGENCIES.**Professional employer**

organizations, §§23-92-401 to 23-92-419.

See PROFESSIONAL EMPLOYER ORGANIZATIONS.

TEMPORARY RESTRAINING ORDERS.**Injunctions.**

Temporary injunctions.

See INJUNCTIONS.

TEMPOROMANDIBULAR JOINT DISORDER.**Health insurance.**

Optional coverage to be offered, §23-79-150.

Health maintenance organizations.

Optional coverage to be offered, §23-79-150.

Hospital or medical services corporations.

Optional coverage to be offered, §23-79-150.

TENANTS BY THE ENTIRETIES.**Banks.**

Multiple-party accounts, §23-47-204.

TERM LIMITATIONS.**Public officers and employees.**

Terms of office, §23-2-101.

TESTIMONY.**Evidence generally.**

See EVIDENCE.

Oaths.

See OATHS.

TESTS.**Examination generally.**

See EXAMINATIONS.

TEST TUBE BABIES.**Health insurance.**

In vitro fertilization coverage required, §23-85-137.

Insurance.

Group and blanket health insurance.

Coverage required, §23-86-118.

THEFT.**Insurance.**

Diversion or appropriation of funds by licensees, §23-64-223.

TIME.**Public service commission.**

Appeals.

Notice of appeal, §23-2-423.

Rehearings.

Application for, §23-2-422.

Statutes of limitation generally.

See STATUTE OF LIMITATIONS.

TITLE.**Insurance.**

See TITLE INSURANCE.

TITLE INSURANCE.**Agents.**

Access to public records, §23-103-311.

Board, §§23-103-201 to 23-103-204.

Composition, §23-103-201.

Duties, §23-103-203.

Established, §23-103-201.

Fees, §23-103-204.

Internal operation, §23-103-202.

Organization, §23-103-202.

Powers, §23-103-203.

Subpoena power, §23-103-202.

Continuing education, §23-103-316.

Licenses, §§23-103-101 to 23-103-316.

Abstracters.

Exemption from examination, §23-103-307.

Access to public records, §23-103-311.

Applications, §23-103-303.

Attorneys at law.

No further qualification required to be licensed title agent, §23-103-302.

TITLE INSURANCE —Cont'd**Agents —Cont'd**

Licenses —Cont'd

Cancellation, §23-103-315.

Continuing education, §23-103-316.

Criminal enforcement of provisions, §23-103-103.

Definitions, §23-103-102.

Examinations, §23-103-304.

Abstracters exempt from examination, §23-103-307.

Expiration, §23-103-310.

Fees, §23-103-204.

Legislative intent, §23-103-101.

Nonresident licensing, §23-103-306.

Policy as evidence, §23-103-314.

Purpose of provisions, §23-103-101.

Qualifications of licensees, §23-103-305.

Register of names, §23-103-203.

Renewal, §23-103-310.

Required, §23-103-301.

Revocation of licenses.

Grounds, §23-103-312.

Procedure, §23-103-313.

Rulemaking, §23-103-203.

Short title of act, §23-103-101.

Temporary licenses, §23-103-308.

Transfer, §23-103-315.

Unlicensed colleagues, employees, assistants, etc., §23-103-309.

Attorneys at law.

Agent.

Licensing attorney as agent.

No further qualification required, §23-103-302.

Commitment.

Evidentiary effect, §23-103-314.

Defined, §23-62-108.**Investments.**

Special investments by title insurer, §23-63-832.

Policies.

Evidentiary effect, §23-103-314.

Reserves, §23-63-614.**TORTS.****Damages generally.**

See DAMAGES.

Immunity generally.

See IMMUNITY.

Insurance.

Casualty insurance.

Retention of tort liability, §23-89-206.

Insured not subject to suit for torts.

Suits against insurers, §23-79-210.

TOWNS.**General provisions.**

See MUNICIPAL CORPORATIONS.

TRACKS.**Greyhound racing generally.**

See GREYHOUND RACING.

Horse racing generally.

See HORSE RACING.

Railroads.

See RAILROADS.

TRAINS.

See RAILROADS.

TRANSPORTATION.**Public service commission.**

Free transportation for commissioners and employees, §23-2-109.

TRANSPORTATION SAFETY AGENCY.**General provisions.**

State highway and transportation department.

See HIGHWAYS.

TREASURER OF STATE.**Railroads.**

Passes.

Permitted to accept and use pass, §23-4-804.

TRESPASS.**Railroads.**

Boarding trains, §23-12-802.

TRUST COMPANIES, §§23-51-101 to 23-51-211.**Acquisition, §§23-51-134 to 23-51-139.**

Appeal from adverse decision, §23-51-137.

Application, §23-51-135.

Criminal penalties for violations, §23-51-139.

Enforcement, §23-51-139.

Commissioner's powers not limited, §23-51-138.

Hearing, §23-51-136.

Limitations on acquisition of control, §23-51-134.

Purchase of assets of another trust company, §23-51-154.

Transfers of acquisition.

Commissioner's powers not limited, §23-51-138.

Voting securities, §23-51-190.

Administrative orders.

Commissioner, §23-51-188.

Affiliates.

Trustees, §23-51-193.

TRUST COMPANIES —Cont'd**Agents.**

Trustees.

Delegation, §23-51-208.

Amendment of bylaws, §23-51-141.**Appeals.**

Acquisition.

Appeal from adverse decision, §23-51-137.

Commissioner hearings, §23-51-112.

Applicability of chapter, §§23-51-210, 23-51-211.**Applications.**

Acquisition, §23-51-135.

Charter, §23-51-106.

Hearing and decision, §23-51-108.

Notice and investigations, §23-51-107.

Protests, §23-51-108.

Merger, §23-51-151.

Private trust companies.

Exemptions from chapter, §23-51-119.

Articles of association.

Amendment, §23-51-114.

Contents, §23-51-105.

Series of shares.

Establishment, §23-51-115.

Assessments.

Examinations, §23-51-185.

Assets.

Pledge of assets, §23-51-133.

Purchase of assets of another trust company, §23-51-154.

Sale of assets, §23-51-155.

Voluntary liquidation, §23-51-161.

Authority to act as fiduciary, §23-51-165.**Bank holidays, §23-48-103.****Banks.**

Liquidation of trust company.

Applicability of Banking Code, §23-51-164.

Subsidiary trust companies, §§23-47-801 to 23-47-807.

See BANKS.

Trust companies no longer subject to banking laws, §23-48-102.

Board of directors, §23-51-142.

Criminal offenses, §23-51-144.

Fiduciary responsibilities.

Duties, §23-51-146.

Officers, §23-51-143.

Placement of assets in business under control of commissioner, §23-51-163.

Bonds, surety.

Directors, officers and employees, §23-51-148.

TRUST COMPANIES —Cont'd**Bonds, surety —Cont'd**

Subsidiary trust companies.

Bond to secure performance,
§23-47-806.

Branches.

Out-of-state trust companies,
§23-51-175.

Powers, §23-51-171.

Bylaws, §23-51-141.**Capital.**

Borrowing limits, §23-51-132.

Change in outstanding capital and
surplus, §23-51-116.

Increases, §23-51-110.

Minimum requirement, §23-51-110.

Required, §23-51-110.

Safety and soundness factors,
§23-51-110.

Surplus.

Increases and decreases, §23-51-116.

**Capital notes or debentures,
§23-51-117.****Charters.**

Activities not requiring a charter,
§23-51-166.

Applications, §23-51-106.

Hearing and decision, §23-51-108.

Notice and investigations,
§23-51-107.

Protests, §23-51-108.

Articles of association.

Amendment, §23-51-114.

Conversion of companies chartered
under prior law, §23-51-113.

Issuance, §23-51-109.

Violations.

Commissioner to take possession,
§23-51-162.

Citation of act, §23-51-101.**Commissioner.**

Administrative orders, §23-51-188.

Emergency actions, §23-51-182.

Enforcement actions, §23-51-182.

Examinations, §§23-51-184, 23-51-185.

Notice and opportunity for hearing.

Commissioner's actions, §23-51-189.

Statements of condition and income,
§23-51-186.

Supervision duties, §23-51-184.

Taking possession of trust company,
§23-51-162.

Witness powers, §23-51-190.

Common trust funds.

Investments, §23-51-131.

Confidentiality of information.

Records, §23-51-187.

TRUST COMPANIES —Cont'd**Conflict of laws.**

Choice of law governing fiduciary
investments, §23-51-199.

Choice of law governing trusts,
§23-51-198.

Conflicts of interest.

Criminal violations, §23-51-145.

Interests in trust institutions,
§23-51-196.

Trustees.

Disclosure, §23-51-195.

**Construction and interpretation,
§23-51-211.****Contracts.**

Dissolution and liquidation.

Rejection of executory contracts,
§23-49-112.

Control.

Acquisition, §§23-51-134 to 23-51-139.

Control of commissioner.

Action by commissioner, §23-51-162.

Action by directors, §23-51-163.

Conversion.

Private to public trust companies,
§23-51-120.

Cooperative agreements.

Offices.

Examinations, §23-51-181.

Corporations.

Applicability of corporate laws,
§23-51-111.

Costs.

Investment costs.

Trustee's responsibilities,
§23-51-206.

Credit extensions.

Lending limits, §23-51-128.

Criminal law and procedure.

Acquisition violations, §23-51-139.

Conflicts of interest, §23-51-145.

Falsification of information,
§23-51-144.

Reports of apparent crimes,
§23-51-149.

Definitions, §23-51-102.**Delegation of fiduciary**

responsibility, §23-51-192.

Deposits.

Investment by deposit of trust funds
with itself, §23-51-130.

Subsidiary trust companies,
§23-47-805.

Designation as trustee, §23-51-197.

Powers generally, §23-51-167.

Records.

Distinct fiduciary records,
§23-51-147.

TRUST COMPANIES —Cont'd**Designation as trustee —Cont'd**

Voting securities, §23-51-190.

Directors.

Bonds, surety, §23-51-148.

Qualifications, §23-51-142.

Removal, §23-51-191.

Dissolution and liquidation,

§§23-49-101 to 23-49-120.

Articles of dissolution, §23-49-117.

Execution and filing, §23-49-118.

Banking code.

Application of, §23-51-164.

Certificate of dissolution, §23-49-118.

Claims.

Presentation and notice, §23-49-109.

Commissioner taking possession,

§§23-51-162, 23-51-163.

Contracts.

Rejection of executory contracts,
§23-49-112.

Definitions, §23-49-101.

Federal deposit insurance agency.

Subrogation to rights of depositors,
§23-49-113.

Injunction against commissioner,
§23-49-103.

Leases.

Rejection of leases, §23-49-112.

Payment of claims, §23-49-111.

Possession by department, §23-49-102.

Injunction against commissioner,
§23-49-103.

Notice of possession, §23-49-105.

Termination, §23-49-104.

Voluntary placement, §23-49-120.

Presentation of claims.

Late claims, §23-49-110.

Receiver.

Actions for enforcement of rights,
§23-49-116.

Appointment, §23-49-106.

Powers, §23-49-107.

Safe deposit boxes.

Notice of safekeeping, §23-49-115.

Sale of assets, §23-49-108.

Statute of limitation on claims,
§23-49-109.

Successors to fiduciaries, §23-49-114.

Voluntary liquidation, §§23-49-119,
23-51-156 to 23-51-160.

Diversification of investments.

Trustees, §23-51-202.

Emergency actions.

Commissioner, §23-51-182.

Employees.

Bonds, surety, §23-51-148.

Removal, §23-51-191.

TRUST COMPANIES —Cont'd**Enforcement actions.**

Commissioner, §23-51-182.

Evidence.

Commissioner's witness powers,
§23-51-190.

Examinations.

Assessments, §23-51-185.

Commissioner's duties, §23-51-184.

Offices, §23-51-181.

Timing, §23-51-185.

Voluntary liquidation, §23-51-159.

Exempt activities, §23-51-166.**Exemptions.**

Private trust companies, §23-51-118.

Application for exemption,
§23-51-119.

Existing trusts.

Applicability of chapter, §23-51-210.

Facilities.

Investments, §23-51-121.

**Falsification of information,
§23-51-144.****Family members.**

Private trust companies, §23-51-118.

Favoritism.

Transactions with management or
affiliates, §23-51-145.

Federal deposit insurance agency.

Dissolution and liquidation.

Subrogation to rights of depositors,
§23-49-113.

Fees.

Acquisition.

Filing fee, §23-51-135.

Application for charter.

Filing fees, §23-51-106.

Examination assessment, §23-51-185.

Felonies.

Conflicts of interest, §23-51-145.

Falsification of information,
§23-51-144.

Fiduciaries.

Dissolution and liquidation.

Successors to fiduciaries, §23-49-114.

Fiduciary relationships.

Companies authorized to act as
fiduciary, §23-51-165.

Fiduciary responsibilities.

Affiliates, §23-51-193.

Board of directors.

Duties, §23-51-146.

Delegation, §23-51-192.

Grandfather clause.

Companies chartered under prior law,
§23-51-113.

Hazardous conditions.

Defined, §23-51-102.

TRUST COMPANIES —Cont'd**Hazardous conditions —Cont'd**

Taking possession by commissioner,
§23-51-162.

Hearings.

Acquisition.

Control, §23-51-136.

Petition for review of adverse
decision, §23-51-137.

Appeals.

Commissioner hearings, §23-51-112.

Charter applications, §23-51-108.

Commissioner's actions.

Notice and opportunity for hearing,
§23-51-189.

Procedure, §23-51-112.

Injunctions.

Dissolution and liquidation.

Injunction against commissioner,
§23-49-103.

Interest.

Capital notes or debentures,
§23-51-117.

Interstate trust offices.

Out-of-state trust companies.

Acquisition, §23-51-177.

Investigations.

Charter application, §23-51-107.

Merger applications, §23-51-151.

Investments, §§23-51-121 to 23-51-133.

Borrowing limits, §23-51-132.

Choice of law governing, §23-51-199.

Common trust funds, §23-51-131.

Deposits of trust funds, §23-51-130.

Facilities, §23-51-121.

Lease-purchase agreements,
§23-51-129.

Loans.

Lending limits, §23-51-128.

Mutual funds, §23-51-126.

Pledge of assets, §23-51-133.

Real estate, §23-51-122.

Securities, §23-51-123.

State trust company facilities,
§23-51-121.

Stocks.

Acquisition of own stock, §23-51-124.

Subsidiaries, §23-51-125.

Trade or commerce.

Prohibited, §23-51-127.

Language invoking chapter,

§23-51-209.

Lease-purchase agreements.

Authorized investments, §23-51-129.

Leases.

Dissolution and liquidation.

Rejection of leases, §23-49-112.

TRUST COMPANIES —Cont'd**Limitations on acquisition of control, §23-51-134.****Loans.**

Borrowing limits, §23-51-132.

Investments.

Lending limits, §23-51-128.

Lending limits, §23-51-128.

Merger, §§23-51-150 to 23-51-153.

Application, §23-51-151.

Approval of Commissioner, §23-51-152.

Articles of merger.

Application, §23-51-151.

Authority, §23-51-150.

Dissenters' rights, §23-51-153.

Effective date, §23-51-152.

Purchase of assets of another trust
company, §23-51-154.

Misdemeanors.

Acquisition violations, §23-51-139.

Mutual funds.

Investments, §23-51-126.

Names.

Registration, §23-51-169.

Restrictions on use, §23-32-209.

Notice.

Change of location of principal office,
§23-51-172.

Charter application, §23-51-107.

Commissioner's actions.

Notice and opportunity for hearing,
§23-51-189.

Dissolution and liquidation.

Notice of claims, §23-49-109.

Notice of possession by department,
§23-49-105.

Notice of safekeeping of safe deposit
boxes, §23-49-115.

Possession by department,
§23-49-102.

Establishment of offices, §23-51-173.

Out-of-state offices, §23-51-174.

Out-of-state trust companies.

Establishment or acquisition of
office, §23-51-178.

Notice of changes in control,
§23-51-183.

Private trust companies.

Revocation of exemption, §23-51-119.

Oaths.

Commissioner's power to administer,
§23-51-190.

Officers, §23-51-143.

Bonds, surety, §23-51-148.

Removal, §23-51-191.

Offices, §23-51-173.

Cooperative agreements.

Examinations, §23-51-181.

Examinations, §23-51-181.

TRUST COMPANIES —Cont'd**Offices —Cont'd**

Interstate trust offices.

Out-of-state trust companies,
§23-51-176.

Notice of establishment, §23-51-173.

Out-of-state offices, §23-51-174.

Out-of-state trust companies,
§23-51-175.

Acquisition of office, §23-51-177.

Conditions for approval, §23-51-179.

Interstate trust offices, §23-51-176.

Notice requirements, §23-51-178.

Principal office, §23-51-172.

Reports, §23-51-181.

Organization, §23-51-104.**Out-of-state offices, §23-51-174.****Out-of-state trust companies.**

Branches, §23-51-175.

Changes in control.

Notice, §23-51-183.

Notice of changes in control,
§23-51-183.

Offices, §23-51-175.

Acquisition of office, §23-51-177.

Additional offices, §23-51-180.

Conditions for approval, §23-51-179.

Interstate trust offices, §23-51-176.

Notice requirements, §23-51-178.

Powers, §23-51-168.

Requirements, §23-51-175.

Penalties.

Violation of administrative orders,
§23-51-188.

Permits.

Voluntary liquidation, §23-51-158.

Pledge of assets, §23-51-133.**Possession by commissioner,
§23-51-162.**

Action of directors, §23-51-163.

Powers, §§23-51-104, 23-51-167.

Branches, §23-51-171.

Out-of-state trust companies,
§23-51-168.

Trust business, §23-51-170.

Principal office, §23-51-172.**Priorities.**

Dissolution and liquidation.

Payment of claims, §23-49-111.

Private trust companies, §23-51-118.

Applications.

Exemptions from chapter,
§23-51-119.

Conversion to public trust companies,
§23-51-120.

Requirements, §23-51-119.

TRUST COMPANIES —Cont'd**Prudent investor rule.**

Trustees, §23-51-200.

Language invoking standard,
§23-51-209.

Review of compliance, §23-51-207.

Real estate.

Investments.

Limitations, §23-51-122.

Records.

Confidentiality, §23-51-187.

Distinct fiduciary records, §23-51-147.

**Removal of directors, officers and
employees, §23-51-191.****Reports.**

Apparent crimes, §23-51-149.

Offices, §23-51-181.

Statements of condition and income,
§23-51-186.

Voluntary liquidation, §23-51-159.

Rules and regulations, §23-51-103.

Commissioner's authority, §23-51-184.

Safe deposit boxes.

Dissolution and liquidation.

Notice of safekeeping, §23-49-115.

Sale of assets, §23-51-155.

Voluntary liquidation, §23-51-161.

Sale of goods.

Engaging in commerce prohibited,
§23-51-127.

Securities.

Investments, §23-51-123.

Voting securities held in trust
capacity, §23-51-190.

Service of process.

Principal office, §23-51-172.

Shareholders.

Voluntary liquidation, §§23-51-156 to
23-51-161. See within this
heading, "Voluntary liquidation."

Standard of care.

Trustees, §23-51-201.

**Statements of condition and income,
§23-51-186.****Statute of limitations.**

Dissolution and liquidation.

Claims, §23-49-109.

Stocks.

Acquisition of own stock, §23-51-124.

Capital notes or debentures,
§23-51-117.

Changes in outstanding capital and
surplus.

Limitations, §23-51-116.

Establishing series of shares,
§23-51-115.

Investments.

Acquisition of own stock, §23-51-124.

TRUST COMPANIES —Cont'd

Subpoenas.

Commissioner's powers, §23-51-190.

Subsidiaries.

Investments, §23-51-125.

Subsidiary trust companies,

§§23-47-801 to 23-47-807.

Affiliated bank defined, §23-47-801.

Bank holidays, §23-48-103.

Bond to secure performance,
§23-47-806.

Definitions, §23-47-801.

Deposits, §23-47-805.

Exclusion of accounts from
substitution agreement,
§23-47-804.

Formation, §23-47-802.

Qualification as successor fiduciary,
§23-47-807.

Substitution agreements with
affiliates, §23-47-803.

Exclusion of certain accounts,
§23-47-804.

Suspension of operations.

Effect, §23-51-163.

Title of act, §23-51-101.

Transactions with management or affiliates, §23-51-145.

Transfers against public interest.

Acquisition procedure does not limit,
§23-51-138.

Trust business.

Activities not requiring a charter,
§23-51-166.

Authority to act as fiduciary,
§23-51-165.

Powers, §23-51-170.

State trust institutions, §23-51-167.

Trustees, §§23-51-200 to 23-51-211.

Affiliates, §23-51-193.

Agents.

Delegation, §23-51-208.

Conflicts of interest.

Disclosure, §23-51-195.

Delegation of fiduciary responsibility,
§23-51-192.

Designation, §23-51-197.

Diversification of investments,
§23-51-202.

Duties, §23-51-203.

Fees, §23-51-194.

Impartiality, §23-51-205.

Initial inquiry, §23-51-203.

Investment costs, §23-51-206.

Investment strategies.

Standard of care, §23-51-201.

Loyalty, §23-51-204.

TRUST COMPANIES —Cont'd

Trustees —Cont'd

Prudent investor rule, §23-51-200.

Language invoking standard,
§23-51-209.

Review of compliance, §23-51-207.

Standard of care, §23-51-201.

Unclaimed property.

Liquidated state trust company,
§23-51-160.

Voluntary liquidation.

Authority to liquidate, §23-51-158.

Examination, §23-51-159.

Permit, §23-51-158.

Procedure, §23-51-157.

Reports, §23-51-159.

Sale of assets, §23-51-161.

Shareholder action, §23-51-157.

Shareholder vote, §23-51-156.

Terms, §23-51-156.

Unclaimed property, §23-51-160.

Witnesses.

Commissioner's powers, §23-51-190.

TRUST FUNDS.

Common trust funds.

Investments by trust companies,
§23-51-131.

TRUSTS AND TRUSTEES.

Affidavits.

Banks as trustees, §23-47-706.

Banks.

Trust powers generally, §§23-47-701 to
23-47-710.

See BANKS.

Credit unions.

Shares issued in trust, §23-35-503.

Insurance.

Fraud investigation division,
§§23-100-101 to 23-100-107.

Investments.

Equipment trust certificates,
§23-63-819.

Investment trust securities,
§23-63-820.

Minimum basic benefit policies.

Qualified trust, §23-98-104.

Defined, §23-98-102.

Formation, §23-98-104.

Investments.

Insurance.

Equipment trust certificates,
§23-63-819.

Investment trust securities,
§23-63-820.

Oaths.

Banks as trustees, §23-47-706.

TRUSTS AND TRUSTEES —Cont'd
Railroads.

Corporations.

Voting of stock by trustee,
§23-11-212.**Savings and loan associations.**Action as trustee not deemed an
investment advisor, §23-37-402.Authority to act as trustee for certain
trusts, §23-37-402.**TUNNELS.****Railroads.**

See RAILROADS.

U**UNCLAIMED PROPERTY.****Trust companies.**Liquidated state trust company,
§23-51-160.**UNDERINSURED MOTORISTS,**

§23-89-209.

Annual report by insurers,

§23-63-1202.

Set-offs or reduction of recovery,

§23-89-403.

UNDERWRITERS.**Policies of insurance,** §23-79-117.**Rural risk underwriting association.**

See INSURANCE.

**UNFAIR COMPETITION AND
TRADE PRACTICES.****Comprehensive health insurance
pool.**

Unfair referrals to plan, §23-79-513.

Fraternal benefit societies.Unfair methods of competition and
unfair and deceptive acts and
practices, §23-74-610.**Insurance.**

See INSURANCE.

**UNINCORPORATED
ASSOCIATIONS.**

See ASSOCIATIONS.

UNINSURED MOTORISTS.**Casualty insurance.**

Bodily injury coverage.

Required, §23-89-403.

Definition of uninsured motorist,
§23-89-401.

Insurers' solvency protection.

Applicability, §23-89-402.

Property damage coverage, §23-89-404.

Subrogation of insurer making
payment, §23-89-405.**UNINSURED MOTORISTS —Cont'd**
Motor vehicle safety responsibility.

General provisions.

See SAFETY RESPONSIBILITY,
MOTOR VEHICLES.**UNITED STATES.****Industrial loan institutions.**Loans insured by federal government,
§23-36-110.**UNIVERSAL TELEPHONE SERVICE
ACT.****General provisions,** §§23-17-301 to
23-17-307.

See TELEPHONES.

UNIVERSITIES AND COLLEGES.**Health maintenance organizations.**

Primary care physician required.

Options for students at
postsecondary institutions,
§23-76-132.**USED MOTOR VEHICLES.****Buyers protection.**General provisions, §§23-112-601 to
23-112-612.

See MOTOR VEHICLES.

**USE OF CREDIT INFORMATION IN
PERSONAL INSURANCE ACT,**

§§23-67-401 to 23-67-415.

See INSURANCE.

UTILITIES.**Public utilities.**

Generally.

See PUBLIC UTILITIES.

UTILITY FACILITY**ENVIRONMENTAL AND****ECONOMIC PROTECTION ACT.****General provisions,** §§23-18-501 to
23-18-532.

See PUBLIC UTILITIES.

V**VALUED POLICY LAW.****Property insurance, total loss by fire
or natural disaster,** §23-88-101.**VANDALISM.****Telephone and telegraph companies.**

Injuring equipment, §23-17-107.

**VENDING MACHINES AND
DEVICES.****Insurance,** §23-64-221.**VENUE.****Insurance.**

Delinquency proceedings, §23-68-103.

VENUE —Cont'd**Insurance —Cont'd**

Mutual assessment life and disability insurers.

Actions, §23-72-120.

Suits against insurers, §23-79-204.

Securities regulation.

Violation of provisions, §23-42-105.

VIATICAL SETTLEMENTS,

§§23-81-601 to 23-81-615.

Advertising, §23-81-611.**Antifraud initiatives, §23-81-612.****Approval of contracts, §23-81-605.****Approval of disclosure statements, §23-81-605.****Audits, §23-81-607.****Civil remedies, §23-81-613.****Criminal violations, §23-81-613.****Definitions, §23-81-602.****Disclosures required, §23-81-608.**

Approval of statement, §23-81-605.

Examination of licensees, §23-81-607.**Fraud prevention and control, §23-81-612.****Licenses.**

Requirements, §23-81-603.

Revocation or denial, §23-81-604.

Notice of viaticated policy, §23-81-609.**Prerequisites to contract, §23-81-609.****Privacy requirements, §23-81-606.****Prohibited contracts, §23-81-610.****Records retention, §23-81-607.****Reports, §23-81-606.****Rulemaking, §23-81-615.****Title of provisions, §23-81-601.****Unfair trade practices, §23-81-614.****VICARIOUS LIABILITY.****Professional employer organizations.**

Liability limitation, §23-92-409.

W**WAGERING.****Greyhound racing.**

See GREYHOUND RACING.

Horse racing.

See HORSE RACING.

WAIVER.**Fraternal benefit societies.**

Laws of societies, §23-74-204.

Insurance.

Policies.

Claims administration not waiver, §23-79-127.

WAIVER —Cont'd**Securities regulation.**

Compliance with chapter.

Void, §23-42-109.

WAR.**Telephone and telegraph companies.**

Immediate dispatch of public messages, §23-17-106.

Failure to give immediate dispatch.

Misdemeanor, §23-17-106.

WATER AMUSEMENT**ATTRACTIONS.****Insurance for amusements,**

§§23-89-501 to 23-89-518.

See AMUSEMENTS.

WATER CLOSETS.**Railroad depots, §23-10-201.****WATER POWER COMPANIES.****Damages.**

Eminent domain, §23-18-406.

Land flooded or taken.

Assessment of damages by court, §23-18-405.

Dams.

Erection of dams to develop electric power, §23-18-402.

Time to begin work, §23-18-404.

Railroads in connection with construction of dam.

Acquisition of right of way.

Eminent domain, §23-18-407.

Use of power.

Application for permit to use power, §23-18-403.

Compensation, §23-18-403.

Eminent domain.

Costs.

Payment, §23-18-406.

Damages.

Assessment, §23-18-406.

Jury, §23-18-406.

Payment, §23-18-406.

Forfeiture of rights for failure to pay, §23-18-406.

Deposit required pending litigation, §23-18-406.

Forfeiture of rights for failure to deposit, §23-18-406.

Guardian ad litem.

Proceedings against infants and insane persons, §23-18-406.

Insane persons.

Proceedings against.

Guardian ad litem appointed, §23-18-406.

Jury.

Assessment of compensation, §23-18-406.

WATER POWER COMPANIES

—Cont'd

Eminent domain —Cont'd

Minors.

Proceedings against infants.

Guardian ad litem appointed,
§23-18-406.

Notice.

Nonresident landowners,
§23-18-406.

Petition, §23-18-406.

Contents, §23-18-406.

Power of eminent domain, §23-18-406.

Railroads in connection with
construction of dam.Acquisition of right of way,
§23-18-407.**Guardian ad litem.**

Eminent domain.

Proceedings against infants and
insane persons, §23-18-406.**Jury.**

Eminent domain.

Assessment of compensation,
§23-18-406.**Legislative declaration.**Water power part of public domain,
§23-18-401.**Mental health.**

Eminent domain.

Proceedings against infants and
insane persons.Guardian ad litem appointed,
§23-18-406.**Minors.**

Eminent domain.

Proceedings against infants.

Guardian ad litem appointed,
§23-18-406.**Notice.**

Eminent domain.

Notice to nonresident landowners,
§23-18-406.**Petitions.**

Eminent domain, §23-18-406.

Public domain.Water power declared part of public
domain, §23-18-401.**Public use.**

Power to be for public use, §23-18-408.

Railroads.Right of way for railroad in connection
with construction of dam.

Acquisition.

Eminent domain, §23-18-407.

Taxation.Power used exclusively for taker's
purposes, §23-18-410.**WATER POWER COMPANIES**

—Cont'd

Use of power.

Terms and conditions, §23-18-409.

WATERS AND WATERCOURSES.**Corporations.**Water power companies, §§23-18-401
to 23-18-410.

See WATER POWER COMPANIES.

Dams.

General provisions.

See DAMS.

Public utilities.Navigable water crossings, §§23-3-501
to 23-3-513.

See PUBLIC UTILITIES.

Water power companies, §§23-18-401
to 23-18-410.

See WATER POWER COMPANIES.

**WATER SUPPLY AND
WATERWORKS.****Eminent domain.**

Utilities serving municipalities.

See EMINENT DOMAIN.

WEAPONS.**Railroads.**

Discharging firearms at cars.

Penalty, §23-12-804.

WEEDS.**Railroads.**Permitting certain weeds to seed on
right-of-way, §23-12-202.**WEIGHTS AND MEASURES.****Railroads.**

Freight.

Weighing.

See RAILROADS.

WHISTLE AND BELL ACT.**Railroads**, §23-12-410.**WIRETAPPING.****Interception of telephone or
telegraph messages**, §23-17-107.**WITNESSES.****Greyhound racing.**Powers of racing commission as to,
§23-111-205.**Highways.**State highway and transportation
department.Compelling attendance and
testimony, §23-2-313.

Contempt proceedings.

Refusal to attend or testify,
§23-2-410.

WITNESSES —Cont'd**Highways —Cont'd**

- State highway and transportation department —Cont'd
- Depositions, §23-2-412.
- Exemption from prosecution based on testimony, §23-2-411.
- False testimony.
- Penalties, §23-1-105.
- Fees, §23-2-414.
- Mileage, §23-2-414.
- Penalties.
- False testimony, §23-1-105.
- Perjury, §23-2-413.
- Refusal to attend or testify.
- Contempt proceedings, §23-2-410.
- Self-incrimination.
- No bar to testimony, §23-2-411.
- Subpoena power, §§23-2-313, 23-2-407.

Horse racing.

- Racing commission.
- Powers as to, §23-110-205.

Insurance.

- Burial associations.
- Hearings, §23-78-108.
- Commissioner, §23-61-301.
- Testimony compelled, §23-61-302.
- Unfair competition and trade practices.
- Hearings, §23-66-209.

Mileage allowance.

- Public service commission, §23-2-414.
- State highway and transportation department, §23-2-414.

Motor carriers.

- Complaints against carriers.
- See MOTOR CARRIERS.

Perjury.

- Public service commission, §23-2-413.
- State highway and transportation department, §23-2-413.

Public service commission.

- Compelling attendance and testimony, §23-2-313.
- Depositions, §23-2-412.
- Exemption from prosecution based on testimony, §23-2-411.
- False testimony.
- Penalty, §23-1-105.
- Fees, §23-2-414.
- Mileage, §23-2-414.
- Perjury, §23-2-413.
- Refusal to attend or testify.
- Contempt proceedings, §23-2-410.
- Self-incrimination.
- No bar to testimony, §23-2-411.
- Subpoena power, §§23-2-313, 23-2-407.

WITNESSES —Cont'd**Railroads.**

- Discrimination.
- Officers compelled to attend and testify, §23-10-110.
- Self-incrimination no bar, §23-10-110.

Subpoenas.

- Generally.
- See SUBPOENAS.

Trust companies.

- Commissioner's powers, §23-51-190.

WORKERS' COMPENSATION.**Appeals.**

- Insurance.
- Mandatory insurance plan.
- Appeals of orders or rulings, §23-67-309.

Employee leasing firms.

- Coverage of employees by workers' compensation insurance.
- Responsibilities of licensed firms, §23-92-315.

Insurance.

- Logging association policies, §§23-67-311, 23-67-312.
- Mandatory insurance plan.
- Appeal of orders or rulings, §23-67-309.
- Cancellation of policy, §23-67-307.
- Citation of subchapter, §23-67-301.
- Compliance with provisions of chapter.
- Failure of insurer to comply, §23-67-308.
- Coverage, §23-67-304.
- Employers entitled to insurance, §23-67-306.
- Establishment, §23-67-303.
- Operation, §23-67-303.
- Participation required, §23-67-305.
- Regulation, §23-67-303.
- Rules and regulations, §23-67-310.
- Purpose of subchapter, §23-67-302.
- Rates and charges, §23-67-219.
- Selection, §23-67-313.

Notice.

- Increase in premiums, §23-79-151.

Rules and regulations.

- Insurance.
- Mandatory insurance plan, §23-67-309.

WRITINGS.**Highways.**

- State highway and transportation department.
- Orders.
- Written orders required, §23-2-420.

WRITS.

Injunctions.

General provisions.

See INJUNCTIONS.

WRITS —Cont'd

Mandamus.

General provisions.

See MANDAMUS.

